

**GRANDVIEW CITY COUNCIL
COMMITTEE-OF-THE-WHOLE
MEETING AGENDA
TUESDAY, JANUARY 10, 2023**



PLEASE NOTE: The maximum occupancy of the Council Chambers is 49 individuals at one time. Access to exits must be kept clear to ensure everyone in the Chambers can safely exit in the event of an emergency.

This meeting will be held in person and will also be available via teleconference. For meeting information and instructions, please contact City Hall at (509) 882-9200.

COMMITTEE-OF-THE-WHOLE MEETING – 6:00 PM

PAGE

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT** – At this time, the public may address the Council on any topic whether on the agenda or not, except those scheduled for public hearing. If you would like to address the Council, please step up to the microphone and give your name and address for the record. Your comments will be limited to three minutes.
- 4. NEW BUSINESS**
 - A. Resolution authorizing the Mayor to sign a Professional Service Agreement with the Yakima Valley Conference of Governments for the Yakima Valley Local Crime Lab (tabled from December 13, 2022 City Council Meeting) 1-11
 - B. Resolution authorizing the Mayor to sign a Latecomer's Agreement between the City of Grandview and Birdie Shots, LLC, regarding reimbursement of sewer lift station and sewer force main costs 12-23
 - C. Resolution approving Amendment No. 2 to Task Order No. 2019-04 with HLA Engineering and Land Surveying, Inc., for the Sludge Drying Bed Evaluation and Design 24-29
 - D. Resolution authorizing the Mayor to sign the Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement with HLA Engineering and Land Surveying, Inc., for the Old Inland Empire Highway Improvements 30-72
- 5. OTHER BUSINESS**
- 6. ADJOURNMENT**

The City of Grandview Committee-of-the-Whole and Regular Council Meetings scheduled for Tuesday, January 10, 2023 at 6:00 pm and 7:00 pm will be held in person and will also be available via teleconference.

Please join the meeting from your computer, tablet or smartphone.

Join Zoom Meeting

<https://us06web.zoom.us/j/88397613604?pwd=T2xZUSt2RUJ6NXpDWINHN0JZQUp1QT09>

To join via phone: +1 253 215 8782

Meeting ID: 883 9761 3604

Passcode: 094781

RESOLUTION NO. 2023-_____

**A RESOLUTION OF THE CITY OF GRANDVIEW, WASHINGTON,
AUTHORIZING THE MAYOR TO SIGN A PROFESSIONAL SERVICE AGREEMENT
WITH THE YAKIMA VALLEY CONFERENCE OF GOVERNMENTS FOR THE
YAKIMA VALLEY LOCAL CRIME LAB**

WHEREAS, the City of Grandview wishes to enter into a Professional Service Agreement with the Yakima Valley Conference of Governments for the Yakima Valley Local Crime Lab,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRANDVIEW, WASHINGTON, as follows:

The Mayor is hereby authorized to sign the Professional Service Agreement with the Yakima Valley Conference of Governments for the Yakima Valley Local Crime Lab in the form as is attached hereto and incorporated herein by reference.

PASSED by the **CITY COUNCIL** and **APPROVED** by the **MAYOR** at its regular meeting on _____, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

YAKIMA VALLEY LOCAL CRIME LAB PROFESSIONAL SERVICE AGREEMENT

THIS PROFESSIONAL SERVICE AGREEMENT (“Agreement”), entered into this ____ day of _____, _____ by and between the Yakima Valley Conference of Governments, a regional association having its territorial limits within Yakima County, State of Washington (hereinafter called the "Conference"), acting herein by James A. Restucci, Conference Chair, acting hereunto duly authorized, and the City of Grandview , a municipal corporation, located within Yakima County, State of Washington (hereinafter called the "City") (together the “Parties”), acting herein by Gloria Mendoza, Mayor, hereunto duly authorized:

RECITALS

WHEREAS, the Conference and participating local governmental entities have determined that there is a mutual benefit in developing and maintaining a regional crime preventative program, sharing information, and coordinating services on a regional basis and providing for the centralized administration of a Local Crime Lab and everyone recognizes the shared benefit thereof;

WHEREAS, the Conference possesses staff and facilities to develop and administer a mutual Local Crime Lab for the collective benefit of participating members consisting of county and local municipal entities; and

WHEREAS, the City and Conference desire to enter into this contract for the purpose of establishing, developing, and administering a Local Crime Lab;

WHEREAS, the City has determined that a need exists and through a cooperative regional resource for gathering, maintaining, and facilitating local and regional information and services a benefit provided;

WHEREAS the Conference is the subrecipient of the Federal American Rescue Plan Act (ARPA) of 2021 which is providing grant funding for the purposes of assisting with the development of this regional crime preventative program; and,

WHEREAS, the City is desirous of contracting with the Conference for administrative and other services related to a regional crime preventative program and Local Crime Lab.

NOW THEREFORE, the Parties do mutually agree as follows:

1. Services to be Provided by the Parties:

- a. The Conference shall protect the purpose of this Agreement which is to stand up a regional crime lab with forensic equipment and expertise in a manner consistent with the activities more specifically laid out in the Scope of Work (Attachment A to this Agreement), subject to modifications deemed necessary for the development and maintenance of a Local Crime Lab.
- b. The City will provide such assistance, information, and data as may be reasonably required to support the objectives set forth in the Scope of Work and to develop and maintain a supportive regional crime preventative program.

- c. The success of the Local Crime Lab is contingent upon the City's good faith participation and cooperation with the Conference in developing, maintaining, and administrating the Local Crime Lab. The City agrees to cooperate and support the development of the program including the division of information, data, and other materials reasonably necessary or supportive of the collective commitment of participating entities.

2. Time of Performance: January 1, 2023 – December 31, 2025:

The effective date of this contract shall be the date the Parties sign and complete execution of the contract. Three-year funding by ARPA provides funding for the development and induction of the program. This is a one (1) year contract, but the Parties recognize and agree that the collective intent of the participating entities is to establish and maintain a program that will support the region and local communities over a 3-year period.

3. Consideration:

- a. The City shall share the cost of developing the program based upon a three-year budget as more particularly set forth in Attachment B which is for all allowable costs and expenses in furtherance of the Scope of Work.
 - i. Reimbursement under this contract shall be based on an annual budget detailed in Attachment B to this Agreement, which sets forth the budgets.
- b. Funding and support of the program in subsequent years is upon the City's determination and appropriation of funds will go to support the activities described in this Contract. The renewal of the City's participation in the program shall be determined annually but it is recognized that the intent is to establish a cooperative and mutually beneficial Local Crime Lab that supports both the region and participating municipalities.

4. Maintenance of Records:

- a. The Conference shall maintain complete and accurate records of all business and activities under this Agreement as it relates to the development, operation, and financial records for the program. In general, such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance. During the term of this Agreement and per state law for seven years following termination or expiration of this Agreement, the Parties shall maintain records sufficient to:
 - i. Document performance of all acts required by law, regulation, or this Agreement;
 - ii. Maintain accounting procedures, practices, and records that sufficient and properly document the Conference's invoices and all expenditures made by the Conference to perform as required by this Agreement; and
 - iii. For the same period, the Conference shall maintain records sufficient to substantiate the

Conference's statement of its organization's structure, tax status, capabilities, and performance.

- b. The Conference shall establish and maintain a system of internal accounting control which complies with applicable Generally Accepted Accounting Principles (GAAP). All Conference records with respect to matters covered by this Agreement shall be subject to examination by the State Auditor.
- c. The Conference shall make available to City a copy of audit report, recommendations, and findings upon written request. The annual audit must include a management letter that addresses the adequacy of internal controls within the organization.
- d. The Conference is responsible for any audit expenses incurred in any audit and any such expenses are normal and reasonable charges to the program. The Conference shall make available financial and other components of the work and services provided as part of the project and this Agreement upon the City's written request.

The City and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records, and books of the Conference involving transactions related to this local program and contract.

5. Relationship:

The relationship of the Conference to the City shall be that of an independent contractor rendering professional services. The Conference shall have no authority to execute contracts or to make commitments on behalf of the City and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the City and the Conference.

The Parties agree that, for the purposes of this Agreement, the Conference is an independent contractor and neither the Conference nor any employee of the Conference is an employee of the City. Neither the Conference nor any employee of the Conference is entitled to any benefits that the City provides its employees. The Conference is solely responsible for payment of any statutory workers' compensation or employer's liability insurance as required by state law.

6. Breach, Termination, and Dispute Resolution:

- a. If the Conference fails to comply with the terms and conditions of this Agreement, the City may pursue such remedies as set forth herein, including, but not limited to, termination of the contract between Parties in the manner specified herein.
- b. Failure/Breach – If the Conference fails to comply with the terms and conditions of this Agreement, or City asserts a material breach of obligations under the Parties' contract, the City shall provide written notification to the Conference of the asserted breach or failure to comply with terms or conditions of the Parties' contract. The Conference shall have thirty (30) days in which to dispute or correct the

asserted breach or failure.

- c. Termination for Cause – The Parties shall have the right to terminate this contract for cause including the following:
- (1) The Conference’s material breach of the terms and conditions of this Agreement and failure to correct or resolve alleged failures or breaches as provided in the preceding paragraph;
 - (2) By mutual consent of Conference and City, in which case the two Parties shall devise by mutual agreement, the conditions of termination, including effective date and in case of termination in part, that portion to be terminated;
 - (3) City’s failure to pay assessments to the Conference promptly or within sixty (60) days after invoices are rendered. Conference shall have the option of terminating this Agreement, but City shall remain obligated for all assessments and obligations through date of termination.
- d. Dispute Resolution – Should any dispute arise between the Parties, the dispute matters shall be first submitted to mediation before a mutually acceptable mediator. The Parties shall each pay their own costs associated with mediation and each shall pay one-half of the selected Mediator’s fees. If the mediation is unsuccessful, then the matter, at either party’s request, shall be submitted to binding arbitration in accordance with the Uniform Arbitration Act (Chapter 7.04A RCW). A substantially prevailing party shall be entitled to recover their costs and attorneys’ fees incurred in the arbitration, and the substantially non-prevailing party shall pay the cost of the arbitration, including the arbitrator’s fee.

7. Reports and Periodic Review:

- a. Reports to Participating Entities – Conference shall provide to City and other participating entities, periodic reports (not less than annually) of the development, operations, programs, and recommendations with respect to continuing and future services and activities for the Local Crime Lab. In the context of periodic review, the City shall also provide to the Conference any recommendations, proposals, or questions regarding both past and future operations of the program. The intent of the Parties is that the development of the Local Crime Lab shall be a collaborative effort that will benefit from a transparent and open line of communication between all participating entities.
- b. Annual Reports – The Conference shall furnish the City annual reports pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.
- c. Recognition of Development – Conference and City recognize that the development of the Local Crime Lab will be a significant undertaking with the first three (3) years being a period where the program, administration and services are developed through the collaborative efforts of all participating entities. Conference shall coordinate a collaborative review of the development and operation of the program during the summer of 2025 for the purpose of conducting a collaborative review of the program for the purpose of refining the scope and parameters of operations and

services.

8. Amendments:

This Agreement, or any term or condition, may only be modified in writing and signed by both Parties. Only personnel authorized to bind each of the Parties shall sign an amendment.

9. Personnel:

The Conference represents that they have, or will secure at their own expense, all personnel required in order to perform under this Agreement. Such personnel shall not be employees of, or have a contractual relationship with, the City.

All services required hereunder will be performed by the Conference or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

The work or services covered by this Agreement may be subcontracted without prior written approval of the City. Any work or services subcontracted hereunder shall be specified in written contract or agreement and shall be subject to each provision of this contract.

10. Assignability:

The Conference shall not assign any interest on this Agreement, nor shall it transfer any interest on this Agreement (whether by assignment or novation), without prior written consent of the City thereto: provided, however, that claims for money by the Conference from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval.

11. Findings of Confidentiality:

The Parties shall use any confidential information gained by reason of this Agreement only for the purposes of this Agreement. Neither the City nor the Conference shall disclose, transfer, or sell any such information to any other party, except as provided by law. All of the reports, information, data, etc., prepared or assembled by the Conference under this contract are confidential to participants in the program and the Conference agrees that they shall not be made available to any individual or organization without prior written approval of the City unless otherwise subject to public records laws. The City shall agree the same.

12. Copyright:

No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the Conference.

13. Compliance with Laws:

a. The Conference shall comply with all applicable local, state, and federal laws, related to the

performance of services under this Agreement and the operation and administration of the regional crime preventative program.

- b. To the maximum extent permitted by law, the Conference shall, at its cost and expense, indemnify, defend, and hold City harmless from and against any and all demands, liabilities, causes of action, costs and expenses (including attorneys' fees), claims, judgments, or awards of damages, arising out of or in any way resulting from the gross negligence of the Conference, or its agents or subcontractors. The Conference shall maintain liability insurance covering its activities and services provided under this agreement in the form and amount determined reasonable and appropriate by the Conference.

14. Title to Property:

Title to all property purchased or furnished by Conference for use by the Conference during the term of this agreement shall remain with the Conference. The Conference shall take reasonable steps to protect and maintain all property in its possession against loss or damage. Since federal funds will provide the primary source for acquisition of necessary equipment and assets, the disposition of equipment and assets upon termination of the program shall be in accordance with applicable federal law and requirements, including but not limited to the provisions of 2 CFR Section 200.313, as amended.

15. Nondiscrimination:

The Conference agrees that it shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, sexual orientation, veteran status, pregnancy, age, marital status, political affiliation or belief, or the presence of any sensory, mental, or physical handicap in violation of the Washington State Law Against Discrimination (RCW chapter 49.60), or under Title VI of the Civil Rights Act of 1964, or the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) or any other applicable state, federal or local law, rule, or regulation.

16. Interest of Members of the City:

No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct, or indirect, in this contract; and the Conference shall also take appropriate steps to assure compliance.

17. Interest of Other Public Officials:

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct or indirect, in this contract; and the Conference shall take appropriate steps to assure compliance.

18. Interest of Consultant and Employees:

The Conference covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Conference further covenants that in the performance of this contract, no person having such interest shall be employed.

19. Creation of an Operations Board:

The Conference shall establish an Operations Board to provide oversight to the program and which shall consist of the Cities' Police Chief and the Yakima County's Sheriff. The Yakima County Prosecuting Attorney, or his delegate, will sit on the Board ex officio and will hold no voting privileges. As part of its role, the Board will meet regularly to discuss operations, programs, and services under this program, as well as its development. This Board will constitute a collaborative measure to ensure that the interests and concerns of the participating members are represented.

20. Hold Harmless:

The Conference agrees to indemnify, defend, and hold City harmless from and against all loss and expense, including attorney's fees and costs by reason of any and all claims and demands upon the City, its elected and appointed officers and employees from damages sustained by any person or persons, arising out of or in consequence of the Conference's and its agents' negligent performance of work associated with this agreement. The Conference shall not be liable for property and bodily injury that may result from the negligence of any construction contractor or construction subcontractor.

21. Integration Provision:

It is agreed and understood that this Agreement contains all agreements, promises and understandings between the Conference and the City and that no verbal or oral agreements, promises or understandings shall be binding upon either party in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing and signed by the Parties. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity

This agreement contains all terms and conditions agreed to by the City and the Conference. The Attachments to this agreement are identified as follows:

Attachment A, Scope of Work, consisting of 1 page.

Attachment B, Local Crime Lab Services Costs, consisting of 1 page.

IN WITNESS WHEREOF, the City and the Conference have executed this contract agreement as of the date

and year last written below.

CITY OF _____
WASHINGTON

YAKIMA VALLEY CONFERENCE OF
GOVERNMENTS

by _____,
Mayor/City Manager

by _____,
YVCOG Chair/Executive Director

ATTEST:

ATTEST:

by _____
City Clerk

by _____
Secretary

Date: _____

Date: _____

APPROVED AS TO LEGAL FORM:

by _____
Attorney for YVCOG

WSBA # _____

ATTACHMENT A

SCOPE OF WORK

Services performed under this contract shall consist of, but are not limited to, the following described tasks. It is recognized that the services performed under this contract may be modified based on the directives of the funding sources who hold certain privileges and abilities to direct and make modifications. The purpose of this contract is to stand up a regional crime lab with forensic equipment and expertise.

- Develop a Program within Yakima Valley Conference of Governments, known as the Local Crime Lab, to provide intelligence and forensic services to local law enforcement.
- Provide organizational management of the Local Crime Lab.
- Purchase equipment and software applications to support forensic services.
- Maintain accounting records for audit with the Washington State Auditor's Office.
- Hire and train staff to become experts with equipment purchased that will be owned and maintained in furtherance of Local Crime Lab including for intelligence and forensic purposes.
- Develop policies and procedures for internal control for the Local Crime Lab.
- Develop and submit annual reports to the participating members identifying local performance of evidence processed
- Provide training to personnel and regional law enforcement to access forensic information.
- Comply with local, state, and federal initiatives to increase public safety and reduce crime.
- Update participating members regarding new or proposed legislation, regulations, or funding streams that may impact the operation of the Local Crime Lab.
- Represent the interests of participating member jurisdictions in state or other organizations which are critical to developing and implementing regional plans for combating crime and supporting victims or victims' families of crimes committed against them.
- Manage grant and contractor compliance, monitoring and program performance evaluation and implement new grant guidance as required by funders.
- An Operations Board ("Board") shall be established to advise and provide input for the Local Crime Lab and shall include the Cities' Police Chief and the Yakima County's Sheriff. The Yakima County Prosecuting Attorney, or his delegate, will sit on the Board ex officio and will hold no voting privileges. This Board shall meet at regular intervals to discuss operations, programs, services, and development of the Local Crime Lab and otherwise providing oversight for the program.

ATTACHMENT B

Local Crime Lab Services per member cost:

| Members | % Population | OFM | | | |
|---------------|--------------|------------|------------|------------|------------|
| | | Population | | | |
| | | | 2023 | 2024 | 2025 |
| GRANDVIEW | 4.25% | 10,960 | \$ 10,208 | \$ 16,183 | \$ 16,183 |
| GRANGER | 1.43% | 3,690 | \$ 3,437 | \$ 5,448 | \$ 5,448 |
| HARRAH | 0.22% | 580 | \$ 540 | \$ 856 | \$ 856 |
| MABTON | 0.77% | 1,975 | \$ 1,839 | \$ 2,916 | \$ 2,916 |
| MOXEE | 1.71% | 4,405 | \$ 4,103 | \$ 6,504 | \$ 6,504 |
| NACHES | 0.43% | 1,110 | \$ 1,034 | \$ 1,639 | \$ 1,639 |
| SELAH | 3.19% | 8,235 | \$ 7,670 | \$ 12,159 | \$ 12,159 |
| SUNNYSIDE | 6.35% | 16,400 | \$ 15,275 | \$ 24,215 | \$ 24,215 |
| TIETON | 0.55% | 1,430 | \$ 1,332 | \$ 2,111 | \$ 2,111 |
| TOPPENISH | 3.44% | 8,870 | \$ 8,261 | \$ 13,097 | \$ 13,097 |
| UNION GAP | 2.56% | 6,595 | \$ 6,142 | \$ 9,738 | \$ 9,738 |
| WAPATO | 1.79% | 4,610 | \$ 4,294 | \$ 6,807 | \$ 6,807 |
| YAKIMA | 37.90% | 97,810 | \$ 91,099 | \$ 144,418 | \$ 144,418 |
| YAKIMA CO. | 34.19% | 88,240 | \$ 82,185 | \$ 130,288 | \$ 130,288 |
| ZILLAH | 1.24% | 3,190 | \$ 2,971 | \$ 4,710 | \$ 4,710 |
| TOTALS | | 258,100 | \$ 240,390 | \$ 381,090 | \$ 381,090 |

**CITY OF GRANDVIEW
AGENDA ITEM HISTORY/COMMENTARY
COUNCIL OF THE WHOLE MEETING**

| | |
|--|--|
| ITEM TITLE | AGENDA NO.: New Business 4 (B) |
| Resolution authorizing the Mayor to sign a Latecomer's Agreement between the City of Grandview and Birdie Shots, LLC, regarding reimbursement of sewer lift station and sewer force main costs | AGENDA DATE: January 10, 2023 |
| DEPARTMENT | FUNDING CERTIFICATION (City Treasurer) (If applicable) |
| Public Works Department | |

DEPARTMENT DIRECTOR REVIEW

Cus Arteaga, City Administrator/Public Works Director 

| | |
|---|--|
| CITY ADMINISTRATOR | MAYOR |
|  |  |

ITEM HISTORY (Previous council reviews, action related to this item, and other pertinent history)

Latecomer agreements, also referred to as recovery contracts, reimbursement agreements, or assessment reimbursement contracts, allow a property owner who has installed street or utility improvements to recover a portion of the costs of those improvements from other property owners who later develop property in the vicinity and use the improvements. At the December 13, 2022 meeting, Council amended Grandview Municipal Code (GMC) Section 13.28.160 Extension of Water Mains/Sewer Lines to align with the updated provisions found in Chapter 35.91 RCW.

ITEM COMMENTARY (Background, discussion, key points, recommendations, etc.) Please identify any or all impacts this proposed action would have on the City budget, personnel resources, and/or residents.

Birdie Shots, LLC, is the owner of real property within the City that is currently unserved by the City's sanitary sewer system. Birdie Shots installed a sewer lift station, sewer force main, and other necessary appurtenance to the property for development. No other property owners or users are presently available to share in the cost and expense of construction of such improvements. Birdie Shots paid all costs and expenses for the installation of said improvements.

The attached Latecomer's Agreement between the City and Birdie Shots, LLC., will allow Birdie Shots who installed said utility improvements to recover a portion of the costs of those improvements from other property owners who later develop property in the vicinity and use the improvements.

ACTION PROPOSED

Move a resolution authorizing the Mayor to sign a Latecomer's Agreement between the City of Grandview and Birdie Shots, LLC, regarding reimbursement of sewer lift station and sewer force main costs to the next regular Council meeting for consideration.

RESOLUTION NO. 2023-_____

**A RESOLUTION OF THE CITY OF GRANDVIEW, WASHINGTON,
AUTHORIZING THE MAYOR TO SIGN A LATECOMER'S AGREEMENT
BETWEEN THE CITY OF GRANDVIEW AND BIRDIE SHOTS, LLC,
REGARDING REIMBURSEMENT OF SEWER LIFT STATION AND
SEWER FORCE MAIN COSTS**

WHEREAS, Birdie Shots, LLC, (Birdie Shots) is the owner of real property within the City of Grandview (City) that is currently unserved by the City's sanitary sewer system; and

WHEREAS, Birdie Shots installed a sewer lift station, sewer force main, and other necessary appurtenance to the property for development of said property; and

WHEREAS, the City finds that it is a public necessity for the installation of the lift station and that it is in the best public interest of the City, Birdie Shots, and for the general public health, safety, benefit, welfare, and economic development; and

WHEREAS, no other property owners or users are presently available to share in the cost and expense of construction of such improvements; and,

WHEREAS, Birdie Shots paid all costs and expenses for the installation of said improvements; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRANDVIEW, AS FOLLOWS:

The Mayor is hereby authorized to sign the Latecomer's Agreement between the City and Birdie Shots, in the form as attached hereto and incorporated herein by reference, for reimbursement to Birdie Shots of sewer lift station and sewer force main costs.

PASSED by the **CITY COUNCIL** and **APPROVED** by the **MAYOR** at a special meeting on _____, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

RETURN TO:

City Clerk
City of Grandview
207 W. Second
Grandview, Washington 98930

REIMBURSEMENT AGREEMENT AND CONVEYANCE

Granter: Birdie Shots, LLC

Grantee: City of Grandview

Legal Description (abbreviated): Portion of Section 22, Township 9 North, Range 23, E.W.M.
Additional Legal Descriptions on Page 2 and Exhibit A

Parcel Nos.: 230922-21404, -21405, -21406, -21407, -21408, -21409, -21410, -21411, -21412, -21413, -21414, -21415, -21416, -21417, -21418, -21419, -21420, -21421, -21422, -21423, -21424, -21425, -21426, -21427, -21428, -21429, -21430, -21431, -21432, -21433, -21434, -21435, -21436, -21437, -21438, -21439, -21440, -21441, -21442, -21443, -21444, -21445, -21446, -21447, -21448, -21449, -21450, -21451, -21452, -21453, -21454, -21455, -21456, -21001, -21002, -21003, -21004, -21005, -21007, and -21008.

THIS AGREEMENT is made and entered into this _____ day of _____, 2023, by and between the CITY OF GRANDVIEW, a Municipal Corporation located in Yakima County, Washington, hereinafter referred to as "City" and BIRDIE SHOTS, LLC, a Washington corporation, hereinafter referred to as "Developer".

WITNESSETH:

WHEREAS, the Developer, in reliance on potential reimbursement upon meeting qualifications under City policy, installed certain sewer lift station, sewer force main, and appurtenances at, near, or within the below described property and connected the same to the City's utility system so that such improvement constitutes an integral part thereof; and,

WHEREAS, no other property owners or users are presently available to share in the cost and expense of construction of such improvements, and the parties hereto having in mind the provisions and terms of RCW 35.91.010 et. seq.; and,

WHEREAS, the Developer paid all the costs and expenses for the installation of said improvements;

NOW, THEREFORE, THE PARTIES HERETO AGREE AND COVENANT AS FOLLOWS:

1. The Developer represents that it is the owner of the following described property:

PARCEL 1 THROUGH 53

Section 22 Township 09 Range 23 Quarter, Lots 1 through 53 of AMENDED PLAT OF PAPPYS LANDING - PHASE 1 recorded under Auditor's File No. 8162426, record of Yakima County, Washington.
Parcel Nos.: 230922-21404, -21405, -21406, -21407, -21408, -21409, -21410, -21411, -21412, -21413, -21414, -21415, -21416, -21417, -21418, -21419, -21420, -21421, -21422, -21423, -21424, -21425, -21426, -21427, -21428, -21429, -21430, -21431, -21432, -21433, -21434, -21435, -21436, -21437, -21438, -21439, -21440, -21441, -21442, -21443, -21444, -21445, -21446, -21447, -21448, -21449, -21450, -21451, -21452, -21453, -21454, -21455, and -21456.

2. The Developer has installed the following described improvements:

- A. A sewer lift station, pump, and approximately 1,650 feet of six-inch (6") HDPE sanitary sewer force main.
3. The installation complies with all applicable codes and regulations of the City of Grandview. In addition to the terms of this Agreement, all facilities offered by the Developer under this Agreement upon the City's acceptance, shall be subject to all City ordinances regulating utility facilities in general, as now or hereafter adopted. The Developer represents that all expenses and claims in connection with the construction and installation of the aforesaid improvements, whether for labor or materials have been or will be paid in full, all at the Developer's expense, and the Developer will defend and hold the City harmless from any liability in connection therewith.
4. The Developer certifies that the total cost of said construction as above specified was in the sum of \$410,732.00. Provided that in no event shall the Developer be reimbursed for an amount greater than \$268,968.84. The legal description containing the lands affected by this Latecomer's Agreement and a map are attached as Exhibit "A" showing an outline of the land affected by such additional charges per the terms of the Agreement.

The total cost of said improvements shall be employed to determine the pro-rata reimbursement to the Developer by any owner of real estate, who did not contribute to the original cost of such improvement, and who subsequently wishes to tap on or connect to said facilities, all subject to the laws and ordinances of the City of Grandview and the provisions of this Agreement. The pro-rata per square foot is \$0.2925 for the certain sewer lift station, and sewer force main, provided, that in no event shall the Developer be reimbursed for an amount greater than \$268,968.84 for construction costs documented by the Developer.

5. The Developer agrees that the construction and installation of said described improvements is in the public interest and in furtherance of public health and sanitation.
6. The Developer hereby conveys, transfers, and assigns unto the City all right, interest and title in and to said improvements and all appurtenances and accessories thereto, free from any claim and encumbrance of any party whomsoever. After inspection and approval of such construction by an engineer of the City's choosing and acceptance by the Grandview City Council, the improvements shall be part of the City's utility system.

The Developer will deliver to the City any and all documents including quit claim deeds and bills of sale that may reasonably be necessary to fully vest title in the City. The Developer will pay to the City such service fees or other charges as may be imposed by ordinances of the City from time to time applicable to like users of the same class.

7. The Developer guarantees workmanship and materials in the facilities subject to this Agreement, for a period of one (1) year after the City's acceptance of the facilities. The Developer warrants that the facilities are fit for use as part of the City sewer system. The Developer will defend and hold the City harmless from any liability claimed by a third person due to faulty workmanship and materials within the aforementioned one-year guarantee period.
8. The City reserves the rights, without affecting the validity or terms of this Agreement to make or cause to be made extensions or additions to the above improvement and to allow service connections to be made to said extensions or additions, without liability on the part of the City.
9. No person, firm or corporation shall be granted a permit or be authorized to connect to the facility for sewer service during the period of twenty (20) years from the date of this Agreement, without first paying to the City, in addition to any and all other costs, fees and charges made or assessed for each connection, or for the facilities constructed in connection therewith, the amount required by the provisions of this Agreement. All amounts so received by the City shall be paid out by it to the Developer under the terms of this Agreement within thirty (30) days after receipt thereof.

Upon expiration of the aforementioned twenty (20) year term, the City shall be under no further obligation to collect or make any further sums to the Developer. The decision of the City Engineer or his authorized representative in determining or computing the amount due from any benefitted owner who wishes to hook up to such improvement, shall be final and conclusive in all respects.

- 10. This Agreement shall become operative upon its being recorded with the Auditor of each County in which any of the benefitted lands are situated, at the expense of the Developer, and shall remain in full force and affect for a period of twenty (20) years after the date of such recording, or until the Developer or its successors or assigns, shall have been fully reimbursed as aforesaid, whichever event occurs earlier, provided, that in the event the improvements described herein shall, during the term of this Agreement, be rendered useless by the redesign or reconstruction of a portion of the City's facility, such determination of uselessness to be in the absolute judgment of the City's Engineer, then the City's obligation to collect for the Developer of the connection charges provided pursuant to this Agreement shall cease.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this _____ day of _____, 2023.

CITY OF GRANDVIEW:

BIRDIE SHOTS, LLC
A Washington Limited Liability Company

By: _____
Mayor

By: Iod Lumbly
Title: MEMBER

By: _____
City Clerk

STATE OF WASHINGTON)

County of Yakima) ss.
)

On this _____ day of _____ 2023, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Gloria Mendoza, to me known to be the Mayor of the City of Grandview and Anita Palacios, to me known to the City Clerk of the City of Grandview, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they are is authorized to execute the said instrument on behalf of said corporation.

GIVEN under-my-hand and official seal the day and year first above written.

NOTARY PUBLIC FOR WASHINGTON

My Commission Expires: _____

STATE OF WASHINGTON)

County of SPOKANE) ss.
)

On this 22nd day of DECEMBER 2022, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared TOD LASLEY, to me known to be the MEMBER of BIRDIE SHOTS, LLC, the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they are is authorized to execute the said instrument on behalf of said corporation.

GIVEN under-my-hand and official seal the day and year first above written.

Rhani Rapp-Stieler
NOTARY PUBLIC FOR WASHINGTON

My Commission Expires: 3/25/2025



EXHIBIT "A"

Reimbursement Agreement and Conveyance

Birdie Shots, LLC

PARCEL 54

The east 190 feet of that part of the NE1/4 of the NW1/4 of Section 22, Township 9 N., Range 23, E.W.M., lying north of the right of way of the Union Pacific Railroad Company:

EXCEPT the east 60 feet measured along the north line thereof: AND EXCEPT the north 25 feet for County Road.

Situated in Yakima County, State of Washington.

Parcel No. 230922-21001

PARCEL 55

That portion of the Northeast quarter of the Northwest quarter of Section 22, Township 9 North, Range 23, E.W.M. described as follows:

Beginning at a point on the North line of said subdivision 195 feet West of the Northeast corner thereof;
Thence West 208.5 feet;

Thence South to the Northerly right of way line of the Union Pacific Railway Company;

Thence Southeasterly along said right of way line 213 feet, more or less, to a point South of the point of beginning;

Thence North to the point of beginning. EXCEPT the North 25 feet for County Road.

Parcel No.: 230922-21002

PARCEL 56

A tract of land situated in the Northeast quarter of the Northwest quarter of Section 22, Township 9 North, Range 23, E.W.M., described as follows: Beginning at a point of the North line of said subdivision 483.5 feet West of the Northeast corner thereof;

Thence West along said North line a distance of 80 feet;

Thence South to the North line of the right of way of the Union Pacific Railway Company;

Thence Easterly along said right of way line to the southwest corner of the Tract of land conveyed to Lloyd D. Whitney and wife by instrument recorded under Auditor's File No. 1392833;

Thence North along the West line of said Whitney tract a distance of 190 feet, more or less, to the North line of said subdivision and the point of beginning, EXCEPT the East 15 feet thereof, AND EXCEPT the North 25 feet thereof for County Road,

AND

A tract of land situated in the Northeast quarter of the Northwest quarter of section 22, Township 9 North, Range 23, E.W.M., described as follows: Beginning at a point on the North line of said subdivision 563.5 feet West of the Northeast corner thereof;

Thence West 50 feet;

Thence South to the North right of way line of the Union Pacific Railway Company;

Thence Easterly along said right of way line to the Southwest corner of the Tract of land conveyed to Walter Vanderwood and wife by Deed recorded under Auditor's File No. 1860078;

Thence North along the West line of said Vanderwood tract to the North line of said subdivision and the

point of beginning. EXCEPT the North 25 feet for County Road.

Parcel No.: 230922-21003

PARCEL 57

The West 192.5 feet of the East 806 feet of that portion of the Northeast quarter of the Northwest quarter of Section 22, Township 9 North, Range 23, E.W.M., lying North of the right of way of the Union Pacific Railway Company, EXCEPT the North 25 feet for County Road.

Parcel No.: 230922-21004

PARCEL 58

All that portion of the following tract lying South of the right of way of Union Pacific Railway Company and South of Rider Lateral more particularly described as follows: Beginning at the Northeast corner of the Northwest quarter of Section 22, Township 9 North, Range 23, E.W.M., Thence West along the North line of said Northwest quarter a distance of 806 feet; Thence South 1322 feet; Thence North 77° 15' East 819 feet; Thence North 1145.5 feet to the point of beginning, LESS right of way of Union Pacific and Rider Lateral: TOGETHER WITH all appurtenances thereunto appertaining.

Parcel No.: 230922-21005

PARCEL 59

The East 60 feet of that part of the Northeast 1/4 of the Northwest 1/4 of Section 22, Township 9 North, Range 23, E.W.M., lying North of the right of way of the Union Pacific Railway Company; EXCEPT the North 25 feet thereof for County Road;

AND

The West 16.5 feet of the following described property: Beginning at a point on the North line of Section 22, Township 9 North, Range 23, E.W.M., 2513.6 feet West of the Northeast corner of said Section; Thence South 00°10' West 333.5 feet; Thence North 77°55' West 137.5 feet; Thence North 00°10' East 304.4 feet, more or less, to the North line of said Section; Thence East along the North line to the true point of beginning; EXCEPTING THEREFROM the North 25 feet.

Situated in Yakima County, State of Washington.

Parcel No.: 230922-21007

PARCEL 60

The West 5 feet of the following described tract:

Commencing at a point on the North line of said Section 22, Township 9 North, Range 23, E.W.M., 200 feet West of the Northeast corner of the Northwest 1/4 of said Section 22;

Thence West 208.5 feet;

Thence South 206 feet, more or less, to the North right of way line of the Union Pacific Railway;

Thence Easterly along said right of way line a distance of 213 feet;

Thence North 251 feet, more or less, to the point of beginning; EXCEPT right of way for County Road.

AND

Commencing at a point on the North line of Section 22, Township 9 North, Range 23, E.W.M., 408.5 feet West of the Northeast corner of the Northwest of said section 22;

Thence West 75 feet;

Thence South 190 feet, more or less, to the North right of way line of the Union Pacific Railway Company;

Thence Easterly along said right of way line 76.67 feet;

Thence North 206 feet, more or less, to the point of beginning; EXCEPT right of way for County Road.

AND

The East 15 feet of the following described tract;

Beginning at a point on the North line of Section 22, Township 9 North, Range 23, E.W.M., 483.5 feet West of the Northeast corner of the Northwest 1/4 of Section 22;

Thence West along said North line a distance of 80 feet;

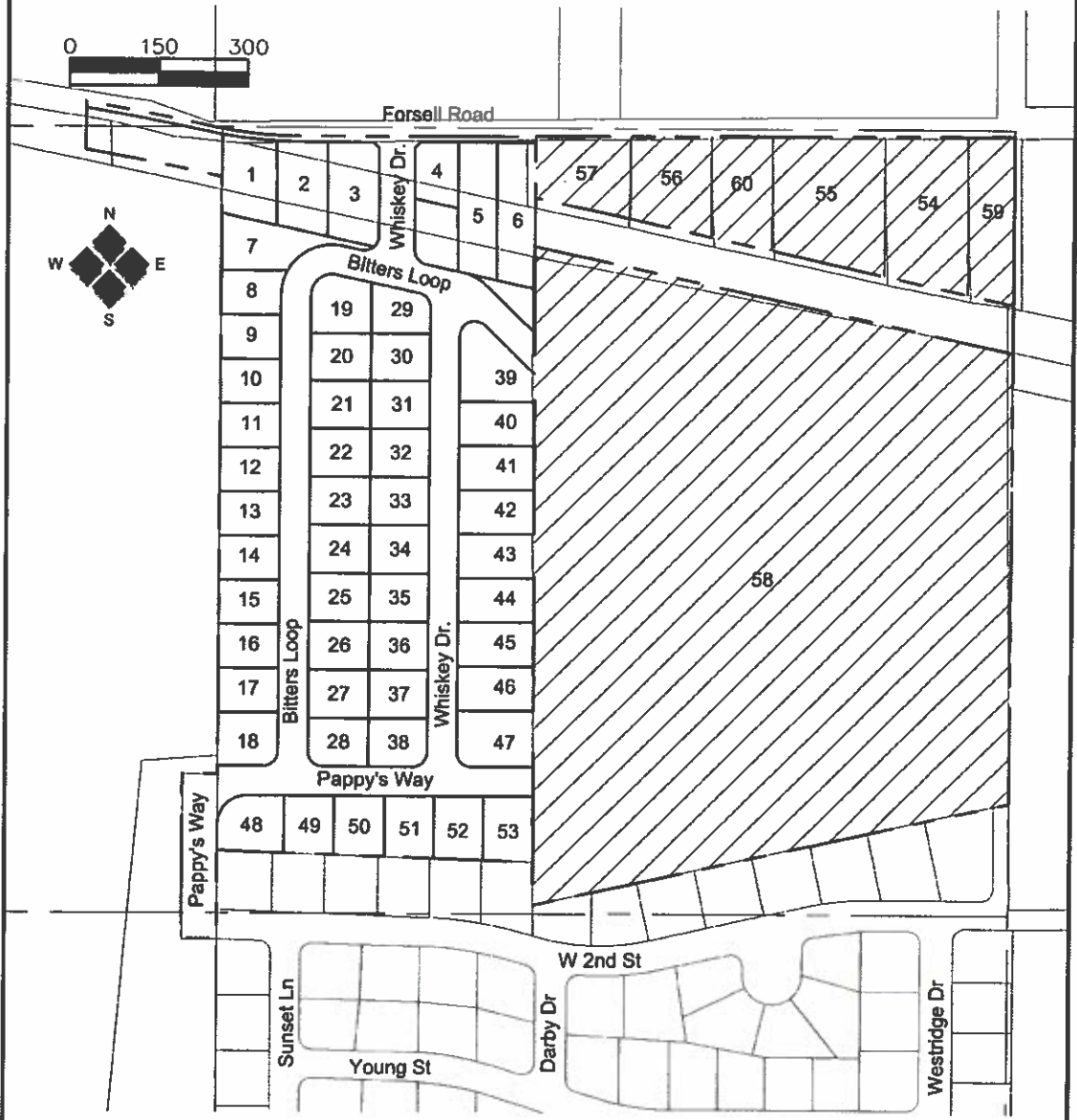
Thence South to the North line of the right of way line of the Union Pacific Railway Company;

Thence Easterly along said right of way line to the Southwest corner of the tract of land conveyed to Lloyd D. Whitney and wife by instrument recorded under Auditor's File Number 1392833;

Thence North along the West line of said Whitney tract a distance of 190 feet, more or less, to the North line of said subdivision and the point of beginning; EXCEPT right of way for County Road.

Parcel No.: 230922-21008

**BIRDE SHOTS, LLC
LATECOMERS AGREEMENT**



| | | | |
|--|-----------------------------------|--|---|
| | PARCELS BELONGING TO OWNER | | PARCELS BENEFITTING FROM LIFT STATION AND FORCE MAIN |
|--|-----------------------------------|--|---|

| | | | |
|---|---|--|--|
| <p style="font-size: 24pt; font-weight: bold; margin: 0;">HLA</p> <p style="font-size: 12pt; margin: 0;">Engineering and Land Surveying, Inc.</p> | 2803 River Road Yakima, WA 98902 509.966.7000 Fax 509.965.3800 www.hlacivil.com | JOB NUMBER: 21090 DATE: 12-13-22 FILE NAMES: DRAWING: 21090.dwg | |
| | DESIGNED BY: MRH ENTERED BY: MDH | | |
| | | | |

Parcels Belonging to Owner

| Parcel | Parcel Number | Parcel Size (SF) | Latecomers Cost |
|---------------|---------------|------------------|---------------------|
| 1 | 230922-21404 | 12,567 | \$3,675.85 |
| 2 | 230922-21405 | 12,857 | \$3,760.67 |
| 3 | 230922-21406 | 14,313 | \$4,186.55 |
| 4 | 230922-21407 | 7,592 | \$2,220.66 |
| 5 | 230922-21408 | 14,869 | \$4,349.18 |
| 6 | 230922-21409 | 15,504 | \$4,534.92 |
| 7 | 230922-21410 | 12,476 | \$3,649.23 |
| 8 | 230922-21411 | 7,639 | \$2,234.41 |
| 9 | 230922-21412 | 7,500 | \$2,193.75 |
| 10 | 230922-21413 | 7,500 | \$2,193.75 |
| 11 | 230922-21414 | 7,500 | \$2,193.75 |
| 12 | 230922-21415 | 7,500 | \$2,193.75 |
| 13 | 230922-21416 | 7,500 | \$2,193.75 |
| 14 | 230922-21417 | 7,500 | \$2,193.75 |
| 15 | 230922-21418 | 7,500 | \$2,193.75 |
| 16 | 230922-21419 | 7,500 | \$2,193.75 |
| 17 | 230922-21420 | 7,500 | \$2,193.75 |
| 18 | 230922-21421 | 8,965 | \$2,622.26 |
| 19 | 230922-21422 | 9,343 | \$2,732.83 |
| 20 | 230922-21423 | 8,000 | \$2,340.00 |
| 21 | 230922-21424 | 8,100 | \$2,369.25 |
| 22 | 230922-21425 | 8,200 | \$2,398.50 |
| 23 | 230922-21426 | 8,200 | \$2,398.50 |
| 24 | 230922-21427 | 8,200 | \$2,398.50 |
| 25 | 230922-21428 | 8,200 | \$2,398.50 |
| 26 | 230922-21429 | 8,200 | \$2,398.50 |
| 27 | 230922-21430 | 8,200 | \$2,398.50 |
| 28 | 230922-21431 | 8,066 | \$2,359.31 |
| 29 | 230922-21432 | 7,504 | \$2,194.92 |
| 30 | 230922-21433 | 8,000 | \$2,340.00 |
| 31 | 230922-21434 | 8,100 | \$2,369.25 |
| 32 | 230922-21435 | 8,200 | \$2,398.50 |
| 33 | 230922-21436 | 8,200 | \$2,398.50 |
| 34 | 230922-21437 | 8,200 | \$2,398.50 |
| 35 | 230922-21438 | 8,200 | \$2,398.50 |
| 36 | 230922-21439 | 8,200 | \$2,398.50 |
| 37 | 230922-21440 | 8,200 | \$2,398.50 |
| 38 | 230922-21441 | 8,066 | \$2,359.31 |
| 39 | 230922-21442 | 13,086 | \$3,827.66 |
| 40 | 230922-21443 | 9,540 | \$2,790.45 |
| 41 | 230922-21444 | 9,567 | \$2,798.35 |
| 42 | 230922-21445 | 9,593 | \$2,805.95 |
| 43 | 230922-21446 | 9,620 | \$2,813.85 |
| 44 | 230922-21447 | 9,646 | \$2,821.46 |
| 45 | 230922-21448 | 9,673 | \$2,829.35 |
| 46 | 230922-21449 | 9,699 | \$2,836.96 |
| 47 | 230922-21450 | 12,255 | \$3,584.59 |
| 48 | 230922-21451 | 10,114 | \$2,958.35 |
| 49 | 230922-21452 | 8,276 | \$2,420.73 |
| 50 | 230922-21453 | 8,504 | \$2,487.42 |
| 51 | 230922-21454 | 8,733 | \$2,554.40 |
| 52 | 230922-21455 | 8,962 | \$2,621.39 |
| 53 | 230922-21456 | 9,219 | \$2,696.56 |
| Total= | | 484,348 | \$141,671.79 |

| Parcels Benefitting from Lift Station and Force Main | | | |
|---|----------------------|-------------------------|------------------------|
| Parcel | Parcel Number | Parcel Size (SF) | Latecomers Cost |
| 54 | 230922-21001 | 36,590.4 | \$10,702.69 |
| 55 | 230922-21002 | 43,124.4 | \$12,613.89 |
| 56 | 230922-21003 | 23,522.4 | \$6,880.30 |
| 57 | 230922-21004 | 22,215.6 | \$6,498.06 |
| 58 | 230922-21005 | 749,667.6 | \$219,277.77 |
| 59 | 230922-21007 | 24,829.2 | \$7,262.54 |
| 60 | 230922-21008 | 19,602.0 | \$5,733.59 |
| Total= | | 919,551.6 | \$268,968.84 |

| Sewer Lift Station and Sewer Force Main Total Amount | |
|---|------------------------|
| Construction Cost= | \$368,805.00 |
| Engineering/Survey/Inspection= | \$41,927.00 |
| Total= | \$410,732.00 |
| Total Area (SF)= | 1,403,899.6 |
| Calculation of Latecomers Fee | |
| Construction Amount | Total Area (SF) |
| \$410,732.00 | 1,403,899.6 |
| | \$0.2925 |

**CITY OF GRANDVIEW
AGENDA ITEM HISTORY/COMMENTARY
COMMITTEE-OF-THE-WHOLE MEETING**

| | |
|---|--|
| ITEM TITLE | AGENDA NO.: New Business 4 (C) |
| Resolution approving Amendment No. 2 to Task Order No. 2019-04 with HLA Engineering and Land Surveying, Inc., for the Sludge Drying Bed Evaluation and Design | AGENDA DATE: January 10, 2023 |
| DEPARTMENT | FUNDING CERTIFICATION (City Treasurer) (If applicable) |
| Public Works Department | |

DEPARTMENT HEAD REVIEW

Cus Arteaga, City Administrator/Public Works Director

CITY ADMINISTRATOR


MAYOR




ITEM HISTORY (Previous council reviews, action related to this item, and other pertinent history)

The City operates a Wastewater Treatment Plant (WWTP) under the terms of a National Pollutant Discharge Elimination System (NPDES) Permit issued by the Washington State Department of Ecology (DOE). A by-product of the operation is the production of waste solids known as "sludge." The sludge is dewatered and placed on asphalt-paved drying beds, as required by DOE, where it is dried to remove moisture and to reduce pathogens. The dried and treated sludge, now regulated as "biosolids," can be applied to agricultural land and put to beneficial use as a soil amendment. The City contracts with Natural Selection Farms to haul the biosolids away and put them to beneficial use.

Task Order No. 2019-04 was originally approved by City Council on October 21, 2019, and included an evaluation of the sludge treatment and disposal processes to determine the extent of sludge drying bed improvements needed. The evaluation concluded with a recommendation to construct the sludge drying bed improvements in two phases. Amendment No. 1 to Task Order No. 2019-04 was approved by the City on January 26, 2021, for design of the Phase 1 and Phase 2 drying bed improvements and construction of the Phase 1 improvements. Construction of Phase 1, which comprised 65,000 square feet of paved drying beds was completed in 2021.

ITEM COMMENTARY (Background, discussion, key points, recommendations, etc.) Please identify any or all impacts this proposed action would have on the City budget, personnel resources, and/or residents.

The City budgeted \$960,000 for design, bidding and construction of the Phase 2 sludge drying bed improvements in 2023. Amendment No. 2 to Task Order No. 2019-04 includes preparation of Phase 2 bid documents, bidding assistance, and construction, engineering services for the project. Additional project phases may be necessary in the future depending on the final construction costs for the Phase 2 sludge drying bed improvements. If required, design and construction services for additional phases of work will be included in a separate task order amendment.

Attached is Amendment No. 2 with HLA Engineering and Land Surveying, Inc., for the Sludge Drying Bed Evaluation and Design with a total fee for services in the amount of \$25,000 for design engineering and \$148,000 for construction engineering.

ACTION PROPOSED

Move a resolution approving Amendment No. 2 to Task Order No. 2019-04 with HLA Engineering and Land Surveying, Inc., for the Sludge Drying Bed Evaluation and Design to the regular Council meeting for consideration.

RESOLUTION NO. 2023-_____

**A RESOLUTION OF THE CITY OF GRANDVIEW, WASHINGTON,
APPROVING AMENDMENT NO. 2 TO TASK ORDER NO. 2019-04 WITH HLA
ENGINEERING AND LAND SURVEYING, INC., FOR THE SLUDGE DRYING BED
EVALUATION AND DESIGN**

WHEREAS, the City of Grandview has entered into a General Services Agreement with HLA Engineering and Land Surveying, Inc., (HLA) for work pursuant to task orders; and,

WHEREAS, the City entered into Task Order No. 2019-04 with HLA to provide professional engineering services and land surveying on October 21, 2019 for the Sludge Drying Bed Evaluation and Design; and,

WHEREAS, the City entered into Amendment No. 1 to Task Order No. 2019-04 with HLA on January 26, 2021 for the Sludge Drying Bed Evaluation and Design; and,

WHEREAS, Amendment No. 2 to Task Order No. 2019-04 includes preparation of Phase 2 bid documents, bidding assistance, and construction, engineering services for the project,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRANDVIEW, AS FOLLOWS:

The Mayor is hereby authorized to sign Amendment No. 2 to Task Order No. 2019-04 with HLA Engineering and Land Surveying, Inc., to provide professional engineering services and land surveying for the Sludge Drying Bed Evaluation and Design in the amount of \$25,000 for design engineering and \$148,000 for construction engineering in the form as is attached hereto and incorporated herein by reference.

PASSED by the **CITY COUNCIL** and **APPROVED** by the **MAYOR** at a special meeting on _____, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

AMENDMENT NO. 2
TASK ORDER NO. 2019-04

REGARDING GENERAL AGREEMENT BETWEEN CITY OF GRANDVIEW

AND

HLA ENGINEERING AND LAND SURVEYING, INC. (HLA)

PROJECT DESCRIPTION:

Sludge Drying Bed Evaluation and Design
HLA Project No. 19140E

Task Order No. 2019-04 for the Sludge Drying Bed Evaluation and Design (PROJECT) project was originally approved by the CITY on October 21, 2019, and included an evaluation of the sludge treatment and disposal processes to determine the extent of sludge drying bed improvements needed. The evaluation concluded with a recommendation to construct the sludge drying bed improvements in two phases. Amendment No. 1 to Task Order No. 2019-04 was approved by the CITY on January 26, 2021, for design of the Phase 1 and Phase 2 drying bed improvements and construction of the Phase 1 improvements. Construction of Phase 1, which comprised 65,000 square feet of paved drying beds was completed in 2021.

REASON FOR AMENDMENT NO. 2:

This CITY has budgeted \$960,000 for design, bidding, and construction of the Phase 2 sludge drying bed improvements in 2023. Amendment No. 2 to Task Order 2019-04 includes preparation of Phase 2 bid documents, bidding assistance, and construction engineering services for the PROJECT. Additional PROJECT phases may be necessary in the future depending on the final construction costs for the Phase 2 sludge drying bed improvements. If required, design and construction services for additional phases of work will be included in a separate task order amendment.

SCOPE OF SERVICES:

The Scope of Services included in Task Order No. 2019-04 shall be amended to include the following new phases of work:

6.0 Phase 2 Design Engineering

This phase includes preparation of bid documents for construction of the Phase 2 sludge drying bed improvements and assisting the CITY with the Phase 2 bidding process. Engineering design plans and cost estimate for the Phase 2 improvements were prepared during design of the Phase 1 improvements. Phase 2 design services will be provided as follows:

- 6.1 Review and evaluate Phase 2 scope of work and estimate of construction costs with CITY to determine if additional phases of work may be necessary.
- 6.2 Prepare final Phase 2 design plans, specifications, and cost estimate for CITY review and approval.
- 6.3 Upon authorization from the CITY, furnish electronic copy of final documents suitable for bidding. Five (5) printed copies of the contract documents will be made for later distribution to the CITY and Contractor after the contract is awarded.
- 6.4 Prepare advertisement for bids and transmit to newspaper(s) selected by the CITY. Advertising fees will be paid by the CITY.

- 6.5 Provide contract documents to potential bidders as requested and maintain a planholders list.
- 6.6 Answer and supply information as requested by prospective bidders.
- 6.7 Prepare and issue addenda to the contract documents, if necessary.
- 6.8 Attend the bid opening and participate in bidder evaluation process following receipt of bids.
- 6.9 Prepare tabulation of all bids received by the CITY and review bidder qualifications.
- 6.10 Make recommendation to the CITY of construction contract award to the lowest responsible bidder.

7.0 Phase 2 Construction Engineering

Phase 2 services during construction will be provided as follows:

- 7.1 Prepare Notice of Award to the Contractor.
- 7.2 Coordinate execution of construction contract with CITY and Contractor, including review of bond and insurance requirements.
- 7.3 Coordinate and facilitate a preconstruction meeting with the CITY and Contractor.
- 7.4 Prepare and issue Notice to Proceed to the Contractor.
- 7.5 Furnish field survey crew to set necessary horizontal and vertical control for the improvements. Provide staking for construction of the improvements.
- 7.6 Furnish a qualified resident engineer (inspector) to observe PROJECT construction for substantial compliance with plans and specifications, and CITY Construction Standards. Prepare construction progress reports for the days when the resident engineer is present.
- 7.7 Review Contractor's submittals for general conformance with the PROJECT specifications.
- 7.8 Review material testing results for compliance with plans and specifications. The services of a material testing laboratory will be provided by the Contractor and included in their bid.
- 7.9 Review and check compliance with state labor standards.
- 7.10 Coordinate and participate in bi-weekly construction meetings as necessary.
- 7.11 Prepare and submit proposed contract change orders, when applicable.
- 7.12 Recommend progress payments for the Contractor to the CITY.
- 7.13 Perform final walk-through with the CITY and Contractor and prepare a punch list of items to be corrected by the Contractor.
- 7.14 Prepare and furnish record drawings of the completed work based on the Contractor's as-built plans and field records provided by the resident engineer and Contractor.
- 7.15 Complete PROJECT closeout administration tasks, including final pay estimate and contract closeout package.

TIME OF PERFORMANCE:

The Time of Performance included in Task Order No. 2019-04 shall be amended as follows:

6.0 Phase 2 Design Engineering

Phase 2 final plans, specifications, and estimate shall be provided within ninety (90) calendar days from the date of receipt of signed Task Order Amendment No. 2. Final plans, specifications, and estimate for the PROJECT are intended to be completed in time for construction of the improvements in 2023.

7.0 Phase 2 Construction Engineering

Phase 2 services during construction will begin upon construction contract award by the CITY to the lowest responsible bidder and shall extend through completion of construction PROJECT closeout tasks. A maximum of sixty-five (65) working days has been assumed for construction of the Phase 2 improvements. Should either the Contractor be granted time extensions for construction completion due to recognized delays, requested additional work, and/or change orders, services during construction beyond sixty-five (65) total working days shall be considered additional services.

FEE FOR SERVICE:

The Fee for Service included in Task Order No. 2019-04 shall be amended as follows:

6.0 Phase 2 Design Engineering

Phase 2 design engineering services shall be completed for the Lump Sum fee of \$25,000.00.

7.0 Phase 2 Construction Engineering

Phase 2 construction engineering services shall be completed on a time-spent basis at the hourly billing rates included in our General Agreement, plus reimbursement for direct non-salary expenses such as laboratory testing, printing expenses, out-of-town travel costs, vehicle mileage, and outside consultants for an estimated maximum fee of \$148,000.00. If the Contractor is granted additional working days beyond those identified in the Time of Performance, then work shall be considered Additional Services.

Proposed:



HLA Engineering and Land Surveying, Inc.
Michael T. Battle, PE, President

12/28/2022
Date

Approved:

City of Grandview
Gloria Mendoza, Mayor

Date

**CITY OF GRANDVIEW
AGENDA ITEM HISTORY/COMMENTARY
COUNCIL OF THE WHOLE MEETING**

ITEM TITLE

Resolution authorizing the Mayor to sign the Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement with HLA Engineering and Land Surveying, Inc., for the Old Inland Empire Highway Improvements

AGENDA NO.: New Business 4 (D)

AGENDA DATE: January 10, 2023


DEPARTMENT

Public Works Department

FUNDING CERTIFICATION (City Treasurer)
(If applicable)

DEPARTMENT DIRECTOR REVIEW

Cus Arteaga, City Administrator/Public Works Director



CITY ADMINISTRATOR

MAYOR




ITEM HISTORY (Previous council reviews, action related to this item, and other pertinent history)

In 2013, the City received funding through the Surface Transportation Program for the Old Inland Empire Highway Improvements project. After competitive selections, the City entered into a Lump Sum Local Agency A&E Consultant Agreement with HLA for professional engineering (PE) phase services in the amount of \$242,900.00. This contract amount was supplemented in 2019 to increase the contract amount to \$280,928, an increase of \$38,028.

ITEM COMMENTARY (Background, discussion, key points, recommendations, etc.) Please identify any or all impacts this proposed action would have on the City budget, personnel resources, and/or residents.

The Washington State Department of Transportation (WSDOT) policies have changed and WSDOT requested the contract be modified from a lump sum to an hourly-rate type contract. All necessary paperwork was filed and approved by WSDOT to modify the contract type. The new contract includes the remaining PE phase funds totaling \$87,568.78 and programmed right-of-way funds (excluding acquisition and state costs) totaling \$91,099. Combined total is \$178,667.78. Once the new contract is approved, it will supersede the existing contract and the existing lump sum contract will be cancelled. Any remaining funds from this contract will roll forward into the construction phase.

ACTION PROPOSED

Move a resolution authorizing the Mayor to sign the Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement with HLA Engineering and Land Surveying, Inc., for the Old Inland Empire Highway Improvements to the next regular Council meeting for consideration.

RESOLUTION NO. 2023-_____

**A RESOLUTION OF THE CITY OF GRANDVIEW, WASHINGTON,
AUTHORIZING THE MAYOR TO SIGN THE LOCAL AGENCY A&E PROFESSIONAL
SERVICES NEGOTIATED HOURLY RATE CONSULTANT AGREEMENT WITH HLA
ENGINEERING AND LAND SURVEYING, INC., FOR THE OLD INLAND EMPIRE
HIGHWAY IMPROVEMENTS**

WHEREAS, the Yakima Valley Regional Transportation Planning Organization awarded Transportation Program (STP) funds to the City for the Old Inland Empire Highway Improvements; and,

WHEREAS, the City must execute a Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement with HLA Engineering and Land Surveying, Inc., as requested by the Washington State Department of Transportation to modify the contract from a lump sum to an hourly-rate type contract,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRANDVIEW, AS FOLLOWS:

The Mayor is hereby authorized to sign the Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement with HLA Engineering and Land Surveying, Inc., for the Old Inland Empire Highway Improvements in the form as is attached hereto and incorporated herein by reference.

PASSED by the **CITY COUNCIL** and **APPROVED** by the **MAYOR** at its regular meeting on _____, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

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

Agreement Number: 13134

| | |
|--|--|
| Firm/Organization Legal Name (do not use dba's): HLA ENGINEERING AND LAND SURVEYING, INC. (HLA) | |
| Address 2803 RIVER ROAD, YAKIMA, WA 98902 | Federal Aid Number STPUS-8052(003) |
| UBI Number 600517737 | Federal TIN 91-1237188 |
| Execution Date | Completion Date 12/31/2025 |
| 1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Project Title OLD INLAND EMPIRE HIGHWAY IMPROVEMENTS | |
| Description of Work DESIGN SERVICES TO RECONSTRUCT AND OVERLAY ROADWAY INCLUDING WIDENING, EXCAVATION, GRAVEL SURFACING, HOT MIX ASPHALT, CURB AND GUTTER, SIDEWALK, STORM DRAINAGE IMPROVEMENTS, LANDSCAPING, AND STREET LIGHTS. ALSO INCLUDES SERVICES NEEDED TO PROCURE RIGHT-OF-WAY TO ACCOMMODATE NEW ROADWAY DESIGN. | |
| Sole Source Approved by WSDOT 11/17/2022. | |
| <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation |
| Maximum Amount Payable: 178,667.78 | |

Index of Exhibits

- Exhibit A Scope of Work
- Exhibit B DBE Participation
- Exhibit C Preparation and Delivery of Electronic Engineering and Other Data
- Exhibit D Prime Consultant Cost Computations
- Exhibit E Sub-consultant Cost Computations
- Exhibit F Title VI Assurances
- Exhibit G Certification Documents
- ~~Exhibit H Liability Insurance Increase~~
- Exhibit I Alleged Consultant Design Error Procedures
- Exhibit J Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the CITY OF GRANDVIEW, 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 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: CUS ARTEAGA
Agency: CITY OF GRANDVIEW
Address: 207 W. 2ND STREET
City: GRANDVIEW State: WA Zip: 98930
Email: CARTEAGA@GRANDVIEW.WA.US
Phone: 509-882-9211
Facsimile: 509-882-9232

If to CONSULTANT:

Name: MICHAEL T. BATTLE, PE
Agency: HLA ENGINEERING AND LAND SURVEY
Address: 2803 RIVER ROAD
City: YAKIMA State: WA Zip: 98902
Email: MBATTLE@HLACIVIL.COM
Phone: 509-966-7000
Facsimile: 509-965-3800

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).

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: CUS ARTEAGA
Agency: CITY OF GRANDVIEW
Address: 207 W. 2ND STREET
City: GRANDVIEW State: WA Zip: 98930
Email: CARTEAGA@GRANDVIEW.WA.US
Phone: 509-882-9211
Facsimile: 509-882-9232

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

Project No. 13134

See attached Exhibit A.

Exhibit A

**HLA Engineering and Land Surveying, Inc.
Scope of Work**

**Old Inland Empire Highway Improvements (PROJECT)
HLA Project No. 13134**

Preliminary Engineering (PE) Phase:

Item 1. Project Management and Funding Administration

1. Provide monthly status reports and invoices for work performed.
2. Prepare and coordinate project schedule in conjunction with funding requirements and timelines.
3. Maintain project files for agency review.
4. Perform quality assurance and quality control reviews at each of the design submittals.
5. Attend up to two (2) Staff or City Council meetings, if requested, to address technical aspects of the work related to scope, design, and schedule.

Assumptions:

1. City Staff will prepare funding obligation packages and reimbursements with assistance from HLA.

Item 2. Environmental Documentation

1. Complete remaining Environmental Documentation including State Environmental Policy Act (SEPA) checklist.

Assumptions:

1. Area of Potential Effect (APE), Section 106, and National Environmental Policy Act (NEPA) CE have been completed and approved.

Item 3. 60% Design – Engineering Design, Plans, Estimate, and Specifications

1. Based on approved preliminary design concept and assumptions, perform the 60% design.
2. Prepare 60% design plans.
3. Prepare 60% Engineer's opinion of construction cost.
4. Transmit 60% design plans and Engineer's opinion of construction cost to the City for review and approval.
5. Transmit 60% design plans to impacted utility companies and identify any repair/relocation requirements.
6. Attend one (1) meeting with the City to review the 60% transmittal package.

Item 4. 90% Design – Engineering Design, Plans, Estimate, and Specifications

1. Based on approved 60% design plans, perform the 90% design.
2. Prepare 90% design plans, including a cover sheet, legend and general notes, construction sequence plans, demolition plans, street improvement plans, pedestrian curb ramp plans, traffic control plans, pavement marking plans, and details.
3. Identify any proprietary materials and prepare Public Interest Finding (PIF) for submission to WSDOT for approval consideration, if necessary.
4. Prepare 90% Engineer's opinion of construction cost.
5. Prepare 90% project specifications and contract documents.
6. Transmit 90% design plans, Engineer's opinion of construction cost, and specifications to the City for review and approval.
7. Attend one (1) meeting with the City to review the 90% transmittal package.

Exhibit A

Item 5. 100% Design – Final Engineering Design, Plans, Estimate, and Specifications

1. Based on approved 90% design plans, perform the final design.
2. Prepare 100% design plans.
3. Prepare 100% Engineer's opinion of construction cost.
4. Prepare 100% project bid documents, contracts, specifications, and special provisions.
5. Request final utility repair/relocation plans from impacted utility companies, as applicable.
6. Address any WSDOT Local Program Review Comments.
7. Transmit 100% design plans, Engineer's opinion of construction cost, and specifications to the City for review and approval.
8. Prepare and submit required documentation to request construction funding obligation.

Assumptions:

1. Work does not include design/replacement of existing utilities.

Item 6. Bidding Phase Assistance

1. Prepare advertisement for bids.
2. Answer and supply such information as requested by prospective bidders.
3. Prepare and issue addenda to contract documents, if necessary.
4. Assist City in bid opening and evaluation process.
5. Prepare summary of bids received and review bidder's qualifications and responsiveness.
6. Coordinate with WSDOT for award approval.
7. Make recommendation of construction contract award to the City.

Assumptions:

1. City will transmit advertisement for bids to selected newspaper(s) for publication with assistance from HLA and pay for all associated advertising fees.
2. City will provide contract documents to potential bidders as requested and maintain plan holder list.

Right-of-Way (ROW) Phase:

1. Ensure appraisals are consistent and in compliance with state and federal laws, regulation, and policies and procedures.
2. Prepare Administrative Offer Summaries (AOS or Appraisal Waiver).
3. Ensure acquisitions are completed in compliance with federal and state laws, regulations, and policies and procedures.
4. Provide and maintain a comprehensive written account of acquisition activities for each parcel.
5. Recommend title clearance.
6. Negotiate settlement terms and prepare Administrative Justification Settlements.
7. Prepare final ROW plans.
8. Coordinate with engineering, program administration, appraisal, and/or property management as necessary.
9. Procure right of way certificate.
10. Provide final, close out, acquisition files.

Exhibit B

DBE Participation Plan

In the absents 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.

N/A

Exhibit C

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

On file at Engineer's office.

B. Roadway Design Files

On file at Engineer's office.

C. Computer Aided Drafting Files

On file at Engineer's office.

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

Agency may review product at 60%, 90%, and final completion levels.

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

Agency may obtain .pdf copies of the plans and specifications upon request.

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

A. Provide full information as to AGENCY requirements for the PROJECT.

B. Assist CONSULTANT by placing at his disposal all available information pertinent to the site of the PROJECT including previous reports, drawings, plats, surveys, utility records, and any other data relative to design and construction of the PROJECT.

C. Examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable time so as not to delay the work of the the CONSULTANT.

D. Obtain approval of all government authorities having jurisdiction over the PROJECT and such approvals and consents from such other individuals or bodies as may be necessary for completion of the PROJECT.

E. Review and pay for advertisements for bids submitted to chosen newspapers.

II. Any Other Electronic Files to Be Provided

On file at Engineer's office.

III. Methods to Electronically Exchange Data

E-mail or thumb drive.

A. Agency Software Suite

Microsoft word and excel. Adobe.

B. Electronic Messaging System

Microsoft exchange and outlook.

C. File Transfers Format

.docx, .xls, .pdf

Exhibit D
Prime Consultant Cost Computations

See attached Exhibit D.

EXHIBIT D
SCHEDULE OF RATES
FOR

HLA Engineering and Land Surveying, Inc.

Effective January 1, 2023, through December 31, 2023

| | |
|-------------------------------------|-------------------|
| Senior Principal Engineer | \$250.00 per hour |
| Licensed Principal Engineer | \$223.00 per hour |
| Licensed Principal Land Surveyor | \$223.00 per hour |
| Licensed Professional Engineer | \$201.00 per hour |
| Other Licensed Professional | \$201.00 per hour |
| Project Engineer II | \$184.00 per hour |
| Licensed Professional Land Surveyor | \$181.00 per hour |
| Project Engineer I | \$165.00 per hour |
| Contract Administrator III | \$151.00 per hour |
| Senior Planner | \$149.00 per hour |
| CAD Technician | \$145.00 per hour |
| Engineering Technician III | \$136.00 per hour |
| Planner | \$136.00 per hour |
| Resident Engineer | \$136.00 per hour |
| Surveyor | \$134.00 per hour |
| Surveyor on Two Man Crew | \$128.00 per hour |
| Contract Administrator II | \$126.00 per hour |
| Engineering Technician II | \$117.00 per hour |
| Surveyor on Three Man Crew | \$112.00 per hour |
| Contract Administrator I | \$97.00 per hour |
| Engineering Technician I | \$97.00 per hour |
| Administrative/Clerical | \$97.00 per hour |
| Vehicle Mileage | Federal Rate |

EXHIBIT D
SCHEDULE OF RATES
FOR

HLA Engineering and Land Surveying, Inc.

Effective January 1, 2024, through December 31, 2024

| | |
|-------------------------------------|-------------------|
| Senior Principal Engineer | \$263.00 per hour |
| Licensed Principal Engineer | \$235.00 per hour |
| Licensed Principal Land Surveyor | \$235.00 per hour |
| Licensed Professional Engineer | \$212.00 per hour |
| Other Licensed Professional | \$212.00 per hour |
| Project Engineer II | \$194.00 per hour |
| Licensed Professional Land Surveyor | \$191.00 per hour |
| Project Engineer I | \$174.00 per hour |
| Contract Administrator III | \$159.00 per hour |
| Senior Planner | \$157.00 per hour |
| CAD Technician | \$153.00 per hour |
| Engineering Technician III | \$143.00 per hour |
| Planner | \$143.00 per hour |
| Resident Engineer | \$143.00 per hour |
| Surveyor | \$141.00 per hour |
| Surveyor on Two Man Crew | \$135.00 per hour |
| Contract Administrator II | \$133.00 per hour |
| Engineering Technician II | \$123.00 per hour |
| Surveyor on Three Man Crew | \$118.00 per hour |
| Contract Administrator I | \$102.00 per hour |
| Engineering Technician I | \$102.00 per hour |
| Administrative/Clerical | \$102.00 per hour |
| Vehicle Mileage | Federal Rate |

EXHIBIT D
SCHEDULE OF RATES
FOR

HLA Engineering and Land Surveying, Inc.

Effective January 1, 2025, through December 31, 2025

| | |
|-------------------------------------|-------------------|
| Senior Principal Engineer | \$274.00 per hour |
| Licensed Principal Engineer | \$245.00 per hour |
| Licensed Principal Land Surveyor | \$245.00 per hour |
| Licensed Professional Engineer | \$221.00 per hour |
| Other Licensed Professional | \$221.00 per hour |
| Project Engineer II | \$202.00 per hour |
| Licensed Professional Land Surveyor | \$199.00 per hour |
| Project Engineer I | \$181.00 per hour |
| Contract Administrator III | \$166.00 per hour |
| Senior Planner | \$164.00 per hour |
| CAD Technician | \$160.00 per hour |
| Engineering Technician III | \$149.00 per hour |
| Planner | \$149.00 per hour |
| Resident Engineer | \$149.00 per hour |
| Surveyor | \$147.00 per hour |
| Surveyor on Two Man Crew | \$141.00 per hour |
| Contract Administrator II | \$139.00 per hour |
| Engineering Technician II | \$128.00 per hour |
| Surveyor on Three Man Crew | \$123.00 per hour |
| Contract Administrator I | \$107.00 per hour |
| Engineering Technician I | \$107.00 per hour |
| Administrative/Clerical | \$107.00 per hour |
| Vehicle Mileage | Federal Rate |

PE Phase Cost Breakout

Project Name:

Old Inland Empire Highway Improvements

Negotiated Hourly Rate (NHR)

Prime Consultant

HLA Engineering and Land Surveying, Inc. = \$118,016.00

Reimbursables

State
Mileage 1000 x \$0.63 = \$625.00
Production \$409.78
\$1,034.78

Grand Total \$119,050.78

Prepared by: Michael Uhlman, PE Date: 12/05/2022

ROW Phase Cost Breakout

Project Name:

Old Inland Empire Highway Improvements

Prime Consultant

HLA Engineering and Land Surveying, Inc. = \$27,141.00

ROW Subconsultant

Commonstreet (ROW Funding Estimate) = \$31,482.00

Reimbursables

State

Mileage 1000 x \$0.63 = \$625.00

Production \$369.00

\$994.00

Grand Total

\$59,617.00

Prepared by: Michael Uhlman, PE

Date: 12/05/2022

Exhibit E
Sub-consultant Cost Computations

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 attached Exhibit E for Commonstreet Consulting Scope and Fee.



Project Funding Estimate (PFE)

- Research property ownerships utilizing City and County databases and resources, set up PFE file.
- Coordinate with design team to understand all design elements and evaluate potential mitigation solutions
- Perform field site visit to investigate impacts to remainder parcels and affected improvements.
- Compile Comparables Book containing listings and recent sales of properties with similiar zoning.
- Analyze listings' relevant to subject properties on project, provide estimation of value based on analysis.
- Produce PFE Final Report, respond to agency comments/questions accordingly.
- Provide QA/QC to confirm ownership, sales data and analysis accuracy.
- Provide all reports/documentation in PFE format, according to City and State guidelines.

Assumptions

- Right of way plans and right of way legal descriptions to be provided by City and/or its contractors.
- City will facilitate payment of claims to affected property owners.
- Commonstreet will order and pay for up to (3) Preliminary Title Reports (PTR's) necessary to confirm all affected ownerships. Cost of PTR's is included in this Scope and Fee Proposal.
- All valuations are assumed to less than \$25,000. If above this amount, this scope and fee proposal is subject to revision to account for appraisal and appraisal review costs, per Uniform Act Requirements.
- Enclosed Scope and Fee Proposal is based on design assumptions understood at the time of this submittal. Any design revisions may require an update to right of way services and valuation fees.

| SCOPE AND FEE SCHEDULE | | | | | |
|---|--|-----|--------|-----------------|----------------|
| Project Management | Sr. Project Manager @ \$169.11/hour @ 24 hours | | | \$4,059 | |
| Valuation Services/AOS's (3 Parcels) | Senior Agent @ \$133.49/hour @ 30 hours | | | \$4,005 | |
| Title Review/Offer Package Prep (3 Parcels) | Senior Agent @ \$133.49/hour @ 24 hours | | | \$3,204 | |
| Negotiations/Settlement Justif. (3 Parcels) | Senior Agent @ \$133.49/hour @ 96 hours | | | \$12,815 | |
| WSDOT Certification Oversight/ Close Out | Sr. Project Manager @ \$169.11/hour @ 8 hours | | | \$1,353 | |
| Project Funding Estimate (PFE) | Senior Agent @ \$133.49/hour @ 24 hours | | | \$3,204 | |
| Sub Total | | | | \$28,640 | |
| Other Direct Costs (ODC's) | | | | | |
| | Travel (Mileage): | 977 | Miles | \$0.560 | \$547 |
| | Postage | 6 | \$7.50 | \$45.00 | \$45 |
| | (3) Preliminary Title Reports @ \$750/each | | | | \$2,250 |
| | Total Direct Reimbursable Subtotal: | | | | \$2,842 |
| Grand Total | | | | \$31,482 | |

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

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

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of AGENCY OFFICIAL
- 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
HLA ENGINEERING AND LAND SURVEYING, INC.

whose address is

2803 RIVER ROAD YAKIMA, WA 98902

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 WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

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.

HLA ENGINEERING AND LAND SURVEYING, INC.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Exhibit G-1(b) Certification of AGENCY OFFICIAL

I hereby certify that I am the:

AGENCY OFFICIAL

Other

of the CITY OF GRANDVIEW, and HLA ENGINEERING AND LAND SURVEYING, INC.

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 WASHINGTON STATE DEPARTMENT OF TRANSPORTATION 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 (I)(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.

HLA ENGINEERING AND LAND SURVEYING, INC.

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.

HLA ENGINEERING AND LAND SURVEYING, INC.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Exhibit I

Alleged Consultant Design Error Procedures

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

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