

Chapter 31

Using Consultants

General Discussion

To be eligible for reimbursement of Federal Highway Administration (FHWA) funds for payments to a consultant, the procedures in this chapter shall be followed. If a Local Agency elects to retain the consultant at its own cost, state law must be followed.

This chapter covers agreements for architects, landscape architects, land surveying, and engineering services outlined in RCW 39.80, see 31.1. The definitions of these four professions are described in RCW Chapters 18.08, 18.43, and 18.96. These will be referred to as architectural and engineering (A&E) services, or engineering services, in this chapter.

This chapter also covers agreements for long-range planning, economic analyses, real estate negotiations, and environmental and biological assessments. These will be referred to as personal services, as outlined in RCW 39.29, (see 31.2).

Throughout this chapter the term “project” means the work to be undertaken by the consultant. An A&E services project may include construction engineering, but does not include the contracted construction work.

The “Definitions” chapter of WSDOT’s *Consultant Services Procedures Manual* contains a detailed description of which categories of work are considered A&E services or personal services. That Manual may be accessed on WSDOT’s Internet website at: (www.wsdot.wa.gov/Consulting), and then click on “*Consultant Services Procedures Manual*.”

The basic steps for entering into a consultant agreement are:

1. Determine the Need For Services.
2. Advertise the Need For Services.
3. Evaluate the Applicants’ Qualifications.
4. Select the Most Qualified Firm.
5. Negotiate with the Most Qualified Firm.
6. Execute the Contract, (Standard Agreement, Exhibits, and Supplements See Appendices).

31.1 A&E Services Consultants

A & E consultant services include the following:

1. Professional or technical expertise to accomplish a specific study, project, task, or other work statement.

2. Any phase of project development, as well as special studies or other assignments within any phase.
3. Periodic examination and consultation or full-time technical inspection during the construction phase.
4. Consultant design and preparation of plans, specifications, and estimates is common when an Agency's staff is small or when an Agency needs additional expertise.

Consultant services do not include purchased services provided by a vendor to accomplish routine, continuing, and necessary services. These may be acquired through use of purchased service agreements. Purchased services include services for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software maintenance, data entry, key punch services, computer time-sharing, contract programming, and analysis (RCW 39.29.006).

Section 319 of Public Law 101-121 prohibits federal funds from being expended by consultants or sub-consultants who receive a federal contract, grant, loan, or cooperative agreement pay, to any person for influencing or attempting to influence a federal Agency or Congress in connection with awarding any of the above.

.11 Determine the Need for A&E Consultant Services. Before an Agency advertises for A&E consultant services, it must have a clear definition of the work to be accomplished. This includes identification of:

1. The nature and scope of effort required,
2. The technical requirements and qualifications of the consultant services needed,
3. The level of funding resources available,
4. The time frame for performing the work, and
5. The expected results and products to be received.

If assistance is needed in describing the desired scope of work, the Agency should seek information from the Region Local Program Engineer or from other Local Agencies that have had similar projects.

Because selection of the most qualified consultant firm is based on evaluations by the Agency, it must develop clear selection guidelines (see 31.13).

The selection criteria should enable the Agency to identify and select the consultant best qualified to meet the Agency's needs and ensure that the selected consultant understands and provides services for the Agency's needs in the most cost-effective manner.

The basic agreement types are lump sum, cost plus fixed fee, provisional hourly rates, negotiated hourly rates, and cost per unit of work (see 31.32). The Agency should determine the type of agreement to be developed with the consultant (though this may be modified during negotiations with the selected consultant).

Consultant selection shall provide for maximum open and free competition and should provide opportunities for small and disadvantaged business enterprises to obtain an equitable share of the work, consistent with the project scope and capabilities of available small and disadvantaged owned firms.

A&E consultants may be solicited for:

1. A specific project,
2. A specific stage of a project (i.e., Design Report),
3. General engineering services (i.e., supporting services of an Agency's staff in studies, design, etc.),
4. For more than one project (i.e., several small bridge design projects) or multiple phases of a single project, or
5. For a combination of the above.

.11a Multi-Phase Projects. In the case of projects covering two or more distinct phases, when the cost for the second phase depends on decisions reached during the first phase, the agreement should cover only the first phase. The agreement for preliminary engineering should state that the consultant may be considered for subsequent phases provided this option was identified in the advertised solicitation. The consultant's engagement to complete subsequent phases depends upon the consultant's satisfactory performance on prior work and upon negotiation of an agreement for the subsequent phase(s). The Agency is not obligated to use the same consultant firm for all phases. Separate consultant agreements may be considered for each phase (e.g., one for preliminary engineering and another for construction engineering).

.11b Environmental Assessment /Environmental Impact Statement / Environmental Classification Summary. The first agreement would include preliminary engineering through final approval of the environmental documents. Preparation of the PS&E could be under a separate agreement with continuation of the original consultant at the option of the Agency, provided this was stated in the original advertisement. Depending on the complexity of the project, both A&E services and personal services consultants may be needed to accomplish this work.

.11c Engineering Management Consultants. While an engineering management consultant may assist an Agency in fulfilling its responsibilities, the Agency cannot delegate these responsibilities to a consultant or to another Agency. A consultant serving in a management role for an Agency, and then managing consultant agreements with its own firm, is a conflict of interest.

.12 Advertise the Need for A&E Consultant Services. State law, RCW 39.80, requires that each Agency must advertise that Agency's requirement(s) for architectural services, land surveying services, or engineering services. An Agency can comply with these requirements by either:

1. Publishing an announcement on each occasion when A&E consultants are required by the Agency, or
2. Publishing an annual notice to establish an "On Call Roster" (or rosters by specialty) to receive qualifications from consultants as to projected requirements for any category or type of engineering services. (See section 31.11) In addition, responsible A&E consultants shall be added to the appropriate "On Call Roster(s)" at any time they submit a written request and their qualifications.
3. The need for consultant services must be advertised at least one day per week for two (2) consecutive weeks (14 day minimum) in the area newspaper used for publication of legal notices. A three (3) week minimum response time from the initial date of publication should be provided to consultants. These advertisements may be supplemented by additional advertisements in special interest publications such as the Daily Journal of Commerce, trade magazines, or publications utilized by disadvantaged business enterprises.

.12a Advertisement Content. The advertisement should contain the following information (see Appendix 31.94 for a sample advertisement):

1. A project title, estimated project cost, and estimated start and end dates,
2. The general scope and nature of the project or work for which services are required and the address of a representative of the Agency who can provide further details,
3. Solicitations of qualification statements, referred to as Requests for Qualifications (RFQ) from consultants, must incorporate a clear and accurate description of the technical requirements for the service to be procured, including any special conditions or certifications required. (Example Submittal Information Forms to obtain consultant qualifications for Prime and Sub-consultants are contained in Appendixes 31.94(a) and 31.94(b), respectively),
4. Solicitations must clearly set forth sufficient detail on how applicant qualifications will be evaluated. These may include but are not limited to key personnel, firm experience, ability to meet schedule, past performance, in-house expertise, familiarity with WSDOT/ FHWA standards, and DBE approach and commitment,
5. Non-engineering service applicants should be asked to provide estimates for the man-hours and classifications needed to complete the project,

6. In the event that a project covers multiple phases (see 31.11a), the Agency is not obligated to utilize the original consultant for subsequent phases. If the Agency desires this option, the advertisement must state the possibility of a multi-phase agreement at the discretion of the contracting Agency,
7. All prospective consultants must be advised that Federally funded projects will be held to Federal EEO requirements,
8. Consultants will also be held to ADA and Civil Rights language for the employing Agency,
9. Response Due Date, and
10. Publication dates.

Specific project cost estimates shall not be requested until a consultant has been selected.

.13 A&E Consultant Evaluation and Selection Process. The Local Agency shall establish guidelines for technical evaluation of the qualifications received, determination of finalists for the purpose of written or oral discussions, and selection for agreement award. Consultants will be selected based upon the qualifications they present. For A&E related services, fees for services cannot be considered during the selection process.

.13a Consultant Selection Requirements

1. Agencies will rate the firms that respond to each advertisement based on their established guidelines for technical evaluation.
2. Agencies will interview at least the top 3 firms for each contract.
3. If less than 3 qualified firms are available for a given contract, the agency will interview as many firms as are available.
4. Following the interview, the agency will select the best qualified consultant from those interviewed.
5. Documentation of Selection. The Local Agency shall retain the following documentation in the project file.
 - A. The names of a least three consultants considered for the work, (excluding exceptions detailed under item 2 A in section .13b.
 - B. The name of the consultant selected and reasons this consultant was chosen over the others.

.13b The following are frequently utilized as part of the consultant selection process:

1. “Live” Interviews and Presentation of the RFQ by Consultant Individuals or Teams. Provides for interaction with the Agency and showcases the consultant’s presentation skills. This approach is best for larger, more complex projects, but does increase travel time and costs to the applicant. Video presentation or teleconferencing may be considered as an alternative to reduce travel costs.

2. Telephone Interviews. Provides for interaction but eliminates travel time and cost. This approach is useful for smaller projects or for selecting from an on-call or small works roster.
 - A. Exceptions to the competitive process used for consultant selection:
 1. Subsequent Phasing. Selection of a consultant to perform subsequent project phases may only occur if this option was advertised originally (i.e., Phase 1 Preliminary Engineering, Phase 2 Right-of-Way, Phase 3 Construction Engineering).
 2. Contract Amendments. Amendments that do not significantly alter the scope of work can be renegotiated with the existing consultant. However, this should not be used to avoid the responsibility of providing competition for consultant selection.
 3. Emergency. To address a set of unforeseen circumstances beyond the Agency's control which present a real, immediate threat to the proper performance of essential functions, or may result in the material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. (Consult *LAG Manual*, Chapter 33.)
 4. Sole Source. Sole source agreements may be requested from Highways & Local Programs when the consultant provides professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The Local Agency must provide the Region Local Programs Engineer written justification (see Appendix 31.95) for requesting this option based upon:
 - a. The unique nature of the services and/or the unique qualifications, abilities, or expertise of the consultant to meet the Agency's needs. (e.g., Are they highly specialized or one-of-a-kind? What is their past performance, their cost effectiveness [learning curve], and/or the follow-up nature of the required services?).
 - b. Other special circumstances that may be relevant such as confidential investigations, copyright restrictions, or time constraints.
 - c. Availability of consultants in the location required.

Highways & Local Programs must approve all consultant procedures that are exceptions to the competitive process.

.14 Establishing a Consultant "On-Call Roster" Agencies may, establish and maintain a continuous "On-Call Roster" to which interested and qualified firms may apply. This "On-Call Roster" must be updated annually and may be shared with other interested public agencies through an Inter-local agreement signed by the interested parties.

No "On-Call Roster" consultant may be awarded more than one contract from the "On Call Roster" at a time. When active contracts are complete, the consultant's name will be returned to "available" status.

Separate “On Call Rosters” will be kept for each discipline of work. Agencies may not select a firm from one “On Call Roster” to perform work that is covered by a different “on Call Roster”. Each “On Call Roster” must have a separate list of qualification criteria which will be clearly stated in the advertisement for “On Call Roster” firms.

14a. Advertisement Requirements for “On Call Roster”.

1. The Agency shall publish an announcement in a newspaper of general circulation at least once per year to invite consultant firms to submit statements of qualifications and performance data. The advertisement will announce generally projected requirements for any category or type of professional services. The advertisement shall state the contact information of the representative who can provide further details. The Agency shall name all agencies that are utilizing the “On-Call Roster,” including the name of the Agency establishing the “On Call Roster”.
2. The advertisement shall encourage firms to submit or update qualifications and performance data.
3. The advertisement must include appropriate nondiscrimination language per the example advertisement shown in Appendix 31.94

Agencies may provide an application that solicits specific information or may allow firms to apply through other means to establish credentials. This decision is at the discretion of the individual agency.

The Agency shall review submittals to insure firms meet minimum eligibility criteria for responsible firms as defined by the Agency prior to establishing the “On-Call Roster.” The verification process shall consider required licensing, experience, and financial stability in order to establish firms that are reasonably capable of performing the work.

Firms that meet at least minimum levels of responsibility based on the advertisement shall be placed onto the “On-Call Roster.” The “On Call Roster” shall list firms that responded to the advertisement and were found eligible for further consideration by the Agency as project needs arise.

Applications on file after one year will be required to update information through annual advertisement or through a direct process established by the Agency prior to establishing the “On-Call Roster.”

The Agency may issue repeat advertisements to solicit additional firms or firms with a particular specialty for the “On-Call Roster” at any time during the year.

The “On-Call Roster” shall be continuously open.

Firms listed on an Agency “On-Call Roster” shall be available for consideration and eligibility for a project need, unless a specific reason causes the firm to be placed on an inactive status. Such inactive status will be the right of the Agency; however, written notification of the change of status will be given to firms within 30 days of status change. The reason for the status change will be stated clearly in the notification.

.14b The process to select firms from the “On-Call Roster” and enter into a contract shall be as follows.

1. Agencies will interview at least 3 firms for each contract from the “On Call Roster”.
2. If less than 3 qualified firms are available for a given contract, the agency will interview as many as are available on the “On Call Roster” for that particular contract.
3. If no qualified firms are available from the established “On Call Roster,” a separate advertisement and award process must be followed.
4. Following the interview, the Agency will select the best qualified consultant from those interviewed.
5. Document the selection and retain the following in the contract files:
 - A. The names of the consultants considered for the work
 - B. The name of the selected consultant and why this consultant was chosen over the others that were interviewed.

31.2 Personal Services Consultants

Professions outside the fields described in RCW 39.80 may provide such consulting services as long range planning and studies, economic analyses, real estate negotiations, and/or environmental and biological assessments. These consulting services are provided through personal services agreements (RCW 39.29). The basic difference between personal services and A&E consultants is that consultant fees may be considered in selecting personal services consultants, but cannot be considered in selecting A&E services consultants.

The Local Agency is to work with WSDOT Real Estate Services on right-of-way personal services agreements. (See Appendix 31.91 for a Sample Personal Services Contract for Appraiser, and Appendix 31.92 for a Sample Consultant Agreement for Negotiation Services.)

.21 Determine the Need for Personal Services Consultants. Before an Agency advertises for a personal services consultant, it must have a clear definition of the work to be accomplished. This includes identification of:

1. The nature and scope of effort required,
2. The technical requirements and qualifications of the consultant services needed,
3. The level of funding resources available,
4. The time frame for performing the work, and
5. The expected results and products to be received.

If assistance is needed in describing the desired scope of work, the Agency should seek information from the Region Local Program Engineer or from other Local Agencies that have had similar projects.

The Agency should develop selection guidelines for all to understand, because selection of the most qualified consultant firm is based upon evaluations by the Agency. The selection criteria should enable the Agency to identify and select the consultant best qualified to meet the Agency's needs and ensure that the selected consultant understands and provides the Agency's needs in the most cost-effective manner.

The Agency should determine the type of agreement to be developed with the consultant. (This may be modified during negotiations with the selected consultant). The basic agreement types are lump sum, cost plus fixed fee, provisional hourly rates, negotiated hourly rates, and cost per unit of work (see 31.52).

Consultant selection shall provide for maximum open and free competition and should provide opportunities for small and disadvantaged business enterprises to obtain an equitable share of the work, consistent with the project scope, and capabilities of available small and disadvantaged owned firms.

Personal Services consultants may be solicited for:

1. A specific study (i.e. Economic Study),
2. A specific project (i.e. Acquisition of Real Estate),
3. A specific task (i.e. Real Estate negotiations), or
4. For a combination of the above.

.22 Advertise the Need for Personal Services Consultants. State law (RCW 39.29) requires that each Agency must competitively solicit that Agency's requirement for personal services. An Agency can comply with these requirements by either:

1. Using a competitive solicitation process that provides an equal and open opportunity to qualified parties. State law (RCW 39.29.011) requires competitive bidding for contracts greater than \$20,000 and documented evidence of competition on contracts between \$5,000 and \$20,000
2. Publishing an annual notice to establish an "On Call Roster" (or rosters by specialty) to receive qualifications from consultants for projected requirements for any category or type of personal services consultants. In addition, responsible consultants shall be added to the appropriate "On Call Roster(s)" at any time upon the submittal of a written request and a list of their qualifications. (See section 31.14 for more information about establishing an "On Call Roster".)

The need for consultant services must be advertised at least one day per week for two (2) consecutive weeks (14 day minimum) in the area newspaper used for publication of legal notices. A three (3) week minimum response time from the initial date of publication should be provided to consultants. These

advertisements may be supplemented by additional advertisements in special interest publications such as the Daily Journal of Commerce, trade magazines, or publications utilized by disadvantaged business enterprises.

.22a Advertisement Content. The advertisement should contain the following information. (See Appendix 31.94 for a sample advertisement):

1. A project title, estimated project cost, and estimated start and end dates.
2. The general scope and nature of the project, or work for which services are required, and the address of a representative of the Agency that can provide further details.
3. Solicitations of qualification statements, referred to as Requests for Qualifications (RFQ) from consultants, must incorporate a clear and accurate description of the technical requirements for the service to be procured, including any special conditions or certifications required. (Example Submittal Information Forms to obtain consultant qualifications for Prime and Sub-consultants are contained in Appendixes 31.94(a) and 31.94(b) respectively).
4. Solicitations must clearly set forth sufficient detail on how applicant qualifications will be evaluated.
5. For personal services, consultant fees or costs may be requested. RCW 39.29.006 provides that the solicitation of qualifications for selection of personal services consultants may include such factors as consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of performance, and compliance with statutes and rules relating to contracts and services.
6. Non-engineering service applicants should be asked to provide estimates for the man-hours and classifications needed to complete the project.
7. All prospective consultants must be advised that federally funded projects will be held to Federal EEO requirements.
8. Consultants will also be held to ADA and Civil Rights language for the employing Agency.
9. Due date for responses and publication dates.

.23 Personal Services Consultant Evaluation and Selection

Process. The Local Agency shall establish guidelines for technical evaluation of the qualifications received, determination of finalists for the purpose of written or oral discussions, and selection for agreement award. Consultants will be selected based upon the qualifications they present. Fees may be considered as an evaluation factor in the personal services selection process, but it is not a "low-bid" consultant selection where the low bidder wins the contract automatically. For more guidance, refer to the Municipal Research and Services Center (MRSC) of Washington guide, "Contracting for Professional Services in Washington State," Informational Bulletin Number 485.

The following are frequently utilized as part of the consultant selection process:

1. Written Response Only to the Request for Qualifications (RFQ). This approach is best for smaller, clearly defined projects, or projects which are heavily reliant upon their written presentation such as environmental reports.
2. “Live” Interviews and Presentation of the RFQ by Consultant Individuals or Teams. Provides for interaction with the Agency and showcases the consultant’s presentation skills. This approach is best for larger, more complex projects but does increase travel time and costs to the applicant. Video presentation or teleconferencing may be considered as an alternative to reduce travel costs.
3. Telephone Interviews. Provides for interaction but eliminates travel time and cost. This approach is useful for smaller projects or for selecting from an on-call or small works roster.

Exceptions to the competitive process used for consultant selection:

1. Sole Source. Sole source agreements may be requested from Highways & Local Programs when the consultant provides professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The Local Agency must provide the Region Local Programs Engineer written justification (see Appendix 31.95) for requesting this option based upon:
 - a. The unique nature of the services and/or the unique qualifications, abilities, or expertise of the consultant to meet the Agency’s needs. (e.g., Are they highly specialized or one-of-a-kind? What is their past performance, their cost effectiveness [learning curve], and/or the follow-up nature of the required services?)
 - b. Other special circumstances that may be relevant such as confidential investigations, copyright restrictions, or time constraints.
 - c. Availability of consultants in the location required.
2. Emergency. To address a set of unforeseen circumstances beyond the Agency’s control which present a real, immediate threat to the proper performance of essential functions or may result in the material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken. (Consult *LAG Manual*, Chapter 33).
3. Contract Amendments or Added Scope (beyond the original advertisement.) Amendments that do not significantly alter the scope of work can be renegotiated with the existing consultant. However, this should not be used to avoid the responsibility of providing competition for consultant selection.

Highways & Local Programs must approve consultant procedures that are exceptions to the competitive process.

.24 Document Selection. Following consultant selection, the Local Agency shall retain the following documentation in the project file:

1. The names of a minimum of three consultants considered for the work, (excluding exceptions detailed above), and
2. Consultant selected and reasons why this consultant was chosen over the others.

31.3 Negotiation with Selected Firm, A&E, and Personal Services

The Local Agency will notify the consultant of their selection in writing, meet with the consultant to reach a complete and mutual understanding of the scope of services, and begin negotiations on the terms of the agreement.

In this meeting with the selected consultant, the Local Agency should include key people with appropriate technical expertise within the Agency to ensure that their concerns are addressed. The following are typically discussed while developing an agreed upon scope of services:

1. A list of meetings the consultant is expected to attend, expected location of the meetings, and key personnel.
2. The anticipated design schedule — the Local Agency shall designate the basic premises and list criteria to be used in design development.
3. Any special services required.
4. Complexity of the design.
5. Safety and operational considerations.
6. Environmental considerations.
7. Survey and geotechnical testing requirements.
8. Inspection services during construction.
9. Quality control during construction.
10. Preparation of forms, letters, and documents.
11. Property map preparation.

.31 Agency Preparation for Negotiations. Following receipt of the consultant's proposal, Agency responsibilities include:

Compare the consultant's proposal with the Agency's own estimate, examining the scope of work, work hours, and estimate of cost. (See Appendix 31.96, Independent Estimate for Consulting Services, Form DOT 140-012 EF). The Agency is to prepare its independent cost estimate using:

1. The salary rates by position from the consultant's Payroll Register,
2. Multiplying these by the Agency's estimates of staff hours by position for work elements, and

3. Applying the consultant's overhead rate and profit/fee (see below) to develop the total project staff cost estimate.

The Agency uses this independent estimate, along with estimates of non-salary costs, to negotiate the agreement with the consultant.

1. Ensure the consultant has divided the project into work units and related time units in such a manner that the estimate can be readily reviewed for work hours, rates of pay, overhead, profit, and itemized direct non-salary costs.
2. Request records to confirm the consultant's rates (i.e., their Payroll Register, giving payroll rates by name and position of staff working on the project).
3. Request the consulting firm's audited overhead rate from the WSDOT Audit Office. An audited rate conducted by another governmental agency will satisfy this requirement if the audit criteria used by the other agencies conforms with 48 CFR 31. An audited rate conducted by a private accounting firm must be reviewed and accepted by the WSDOT Audit Office before being accepted for use in an agreement. If the firm does not have an audited rate, the Audit Office will conduct an abbreviated audit to determine the rate. The Local Agency Agreement should anticipate a charge averaging \$1,000 for these costs. A lower overhead cost rate may be used if submitted by the consultant firm; however, the consultant's offer of a lower rate shall not be a condition for selecting a consultant.
4. Calculate the consultant's profit/fee amount. An adaptation of WSDOT's procedure for calculating this (described in WSDOT's *Consultant Services Procedures Manual*) is contained in Appendix 31.97. A copy of the "Consultant Fee Calculation Worksheet" may be obtained from WSDOT's Internet website: www.wsdot.gov/Consulting, and then click on the worksheet that is listed under "Manuals/Forms." The fee is determined through evaluation of the following:
 - a. Degree of Risk,
 - b. Relative Difficulty of Work,
 - c. Size of Job,
 - d. Period of Performance,
 - e. Assistance of Agency, and
 - f. Sub-consulting.
 - g. An acceptable profit for a federally funded project may not exceed 15 percent of direct labor, plus overhead costs. In addition, the fixed fee/profit percentage may not exceed 35 percent of direct labor costs only. Maximum allowable profit percentage rates (30%-35%) are reserved for the most difficult, complex, and risky projects. Mark-ups are not allowed on direct "on salary" costs.

- h. A Management Reserve Fund (MRF) may be established to be used for:
 1. Overruns of direct salary and overhead costs that might occur under the existing scope of work, or
 2. The consultant to perform additional work that is outside the agreement or supplement's scope of work (but within the scope of the advertised project).

The maximum MRF set up at the beginning of the agreement is \$100,000 or 10 percent of the agreement, whichever is less. If the original MRF is less than \$100,000, the MRF may be increased by preparing a supplement to a total accumulative amount that cannot exceed \$100,000, (or exceed the cumulative 10 percent). An MRF cannot be included in a Lump Sum agreement. The Agency cannot authorize, and the consultant cannot utilize, the MRF until a task order agreement is set up. (See Appendix 31.99, Exhibit A-2). To set up a task order agreement, the Agency and consultant must negotiate the scope, schedule, and budget for the increase in direct salary and overhead costs, or the increase in additional work to use all or a portion of the MRF.

- i. Mark-up for work performed by sub-consultants is a mandatory 4% with an optional 0-2% additional to provide extra oversight of small consultants that meet the definition of a small business as defined in the *Small Business Administration's Table of Small Business Size Standards*. More information can be found at <http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/index.html>
5. Record and retain an explanation of differences in work hours or costs between the Agency's independent estimate and the negotiated consultant fee.

.32 Agreement Types/Payment Options. The following are the types of agreements that contain acceptable methods of payment for FHWA funded projects. Refer to the Standard Agreement Exhibits for further guidance and required forms (see Section 31.4):

1. **Lump Sum.** This type of agreement is only appropriate where the scope of work (quantity and type) can be clearly defined in advance. It is not recommended for construction engineering agreements. The agreement should state the exact service to be provided within a specific time frame, and when the lump sum payment is to be made. Payments may also be paid in installments as the work proceeds.

Scope of work changes and Management Reserve Funds are not allowed with this type of payment.

Lump sum payment is generally used for investigations, studies, and basic services on design projects. Examples include designs, plans specifications and estimates (PS&E), and preparation of operating, maintenance, or training manuals. A qualified representative for the

Agency must prepare, date, and sign an estimate detailing the hours required for each type of work, as well as the hourly rate.

2. **Cost Per Unit of Work.** This type of agreement is used when the unit cost of the work can be determined in advance with reasonable accuracy, but the extent of the work is indefinite. Examples include soils investigation where costs are based on per foot of drilling, installation of observation wells, soil testing, structural foundation analysis and reports, expert witness testimony, and construction engineering services. Construction engineering services include, but are not limited to, construction management, construction administration, materials testing, materials documentation, contractor payments, general administration, construction oversight, and inspection and surveying.
3. **Actual Costs Plus a Fixed Fee.** This type of agreement is used when the extent, scope, complexity, character, or duration of the work cannot be reasonably determined in advance. Examples include preparation of environmental documents, project design documents, PS&E for large or complex projects including major bridges, and may include construction inspection. The consultant is reimbursed for all eligible direct and indirect costs within defined limits, plus a predetermined amount as a fixed fee. The costs for methods 1 – 3 above are determined by:
 - a. Salaries of employees with time directly chargeable to the project and salaries of principals for the time they are productively engaged in work necessary to fulfill the terms of the agreement. Actual rates of pay for employees and principals actively involved in the project will be included in each agreement.
 - b. Direct non-salary costs incurred in fulfilling the terms of the agreement. Travel costs, (excluding air, train, and rental car costs), shall be in accordance with the Agency's travel rules and procedures. Air, train and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs."
 - c. The consultant's overhead or indirect costs properly allocable to the project. A break out of overhead items will be included in each agreement.
 - d. The consultant's overhead schedule must be prepared in compliance with Code of Federal Regulations (CFR) Part 31.
 - e. Management reserve funds are an Agency option and are to address overruns of direct salary and overhead costs that might occur under the existing scope of work or a need for additional work beyond the existing agreement scope of work, but within the advertised project scope of work.
 - f. Profit / fixed fee is derived by considering the degree of risk, relative difficulty of work, size of job, period of performance, assistance by the Agency, and sub-consulting assumed by the consultant at the time of the negotiations (see 31.31).

Shown as exhibits to the agreement are the consultant's estimate of work, cost rates, overhead rate, and the fixed fee.

4. **Specific Rates of Pay Agreement.** This type of agreement is based upon specific rates of pay for each class of employee and is appropriate for relatively minor items of work of indeterminable extent. This method requires constant and direct control of the time and class of employees used by the consultant. Examples include certain types of soils investigations, planting inspections, bridge inspections, expert witness testimony, training presentations, construction inspections, supplementing Agency staff on small design projects or studies, and "on-call services." The rate of pay may be established through one of two processes:
 - a. **Negotiated hourly rate** payment option establishes the rates of pay through use of the consultant firm's Payroll Register, the audited overhead rate obtained from WSDOT's Audit Office, plus the calculation of the consultant's profit/fixed fee. (See Section 31.31 for guidance in developing the independent estimates of these costs for use in negotiations with the consultant firm). The following items also apply to negotiated hourly rate agreements.
 1. Direct non-salary costs incurred in fulfilling the terms of the agreement. Travel costs, (excluding air, train, and rental car costs), shall be in accordance with the Agency's travel rules and procedures. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs."
 2. The consultant's overhead or indirect costs properly allocable to the project. A break out of overhead items will be included in each agreement.
 3. The consultant's overhead schedule must be prepared in compliance with 48 Code of Federal Regulations (CFR) Part 31.
 4. Management reserve funds are an Agency option and are to address overruns of direct salary and overhead costs that might occur under the existing scope of work or a need for additional work beyond the existing agreement scope of work, but within the advertised project scope of work.
 5. Profit / fixed fee is derived by considering the degree of risk, relative difficulty of work, size of job, period of performance, assistance by the Agency, and sub-consulting assumed by the consultant at the time of the negotiations (see 31.31).
 - b. **Provisional hourly rate payment** option establishes rates of pay through the use of the consultant firm's Payroll Register, plus an overhead rate based on industry standards if an audited overhead rate is not available from WSDOT's Audit Office within the time frame

it is needed. Provisional rates are established at the beginning of the project and are used until the results of an audited overhead rate are known. The provisional rates are then retroactively adjusted to reflect the rate established from the new audit. The following items also apply to provisional hourly rates.

1. Direct non-salary costs incurred in fulfilling the terms of the agreement. Travel costs, (excluding air, train, and rental car costs), shall be in accordance with the Agency's travel rules and procedures. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs."
 2. The consultant's overhead or indirect costs properly allocable to the project. A break out of overhead items will be included in each agreement.
 3. The consultant's overhead schedule must be prepared in compliance with 48 Code of Federal Regulations (CFR) Part 31.
 4. Management reserve funds are an Agency option and are to address overruns of direct salary and overhead costs that might occur under the existing scope of work, or a need for additional work beyond the existing agreement scope of work, but within the advertised project scope of work.
 5. Profit / fixed fee is derived by considering the degree of risk, relative difficulty of work, size of job, period of performance, assistance by the Agency, and sub-consulting assumed by the consultant at the time of the negotiations (see 31.31).
- c. **Task Order Agreements.** This type of agreement is used with Negotiated and Provisional Hourly Rate methods of payment. (See Appendix 31.99, Exhibit A-2.) Each item of work is listed by task assignment in the scope of work and each assignment is individually negotiated with the consultant. The maximum amount established for each assignment is the maximum amount payable for that assignment, unless modified in writing by the Local Agency.

While a regular negotiated hourly rate agreement is for a specific project, a single task order agreement can be used for a series of projects. Once the agreement is established, and each time the consultant's services are needed, a formal task assignment document is completed that describes the work, location, maximum amount payable, and completion date for the task. The agreement does not have to be renegotiated for each new task, therefore saving time. An example of a task order agreement would be one for performing construction inspection over a two-year period.

.33 Agency/Consultant Negotiations. Negotiate an agreement with the selected consultant and retain a record of these negotiations (see Appendix 31.98). Negotiations may include the following:

1. The Agency negotiator and the consultant meet in person or by telephone and go over any significant areas of discrepancy between the Agency estimate and consultant proposal. Either the consultant satisfactorily explains differences or agrees to address concerns in a revised proposal.
2. The Agency reviews revised proposals and revises their detailed cost analysis accordingly. Steps 1 and 2 are repeated, if required.
3. The consultant submits a final fee proposal.
 - a. Provide a final offer in writing.
 1. The final agreement must specify the maximum amount payable,
 2. The basis for establishing the maximum amount should be documented, and
 3. Procedures for adjustments to the maximum amount to accommodate changes in the work distribution or workload shall be explained.
 - b. When unresolved differences exist between the consultant and Local Agency, the Agency shall notify the Region Local Programs Engineer. The Local Programs Engineer will review and confirm that the Agency has followed all the required procedures and will notify the Agency of the finding. The Agency will then notify the consultant in writing that negotiations are terminated and proceed to the next highest ranked consultant to begin the negotiation process again. Negotiation steps and records will be repeated with the alternate consultant selected.

31.4 Standard Agreement, Exhibits, and Supplements to Agreements, A&E, and Personal Services

When the cost of consulting services is \$10,000 or more, Local Agencies must use the Local Agency Standard Consultant Agreement. (See sample agreement in Appendix 31.99, WSDOT Form 140-089 EF and Appendix 31.910, WSDOT Form 140-089A EF). Standard agreement forms are available online at <http://www.wsdot.wa.gov/Consulting/submittalinformationpack.htm>. (Select either the Package for Prime Consultants or Sub Consultants.) The standard agreement was developed to allow the Local Agency to select the appropriate exhibits and assemble them into a complete agreement package for all types of consulting work. The agreement completion date (expiration date) shall be established based on the project schedule. The agreement completion date establishes the last possible date the consultant may work, and be paid for that work, utilizing federal funds. Any work performed after expiration of the agreement will be considered non-federally participating. It

is of the utmost importance that the Agency monitor the project completion date and extend the date by supplemental agreement, if appropriate, prior to the completion date.

The time period for completion of the agreement is dependent upon the complexity of the project's scope of work. The duration may vary from two years for a relatively simple project, to six or more years for a complex project having multiple phases of work.

.41 Exhibits. Exhibits for the Standard Agreement are provided (see Appendix 31.99). The various payment methods require their own exhibits. Examples of types of work for each agreement payment type have already been discussed under Section 31.32, "Agreement Types/Payment Options." Most exhibits are common to any agreement; others require selection by the person creating the standard agreement.

.42 Supplements to the Agreements. An agreement shall be supplemented in writing when work that falls outside the scope of the original agreement is requested, when supplemental language to the standard agreement is desired, or when there is a need for time extension or wage adjustment. This may be done by a supplemental agreement only when the agreement completion date has not expired. (See Appendix 31.911, WSDOT Form 140-063 EF.) The work in the supplement must have been included in the advertisement for consultant services regarding the original agreement.

The supplemental agreement should include:

1. A statement that the original agreement will be supplemented to add/change/amend conditions,
2. A scope of work described in sufficient detail to clearly outline what additional work the consultant is to do or what changes are authorized to the existing scope,
3. The method of payment — i.e., cost-plus-fixed-fee, specified hourly rate, daily rate, and any indirect cost. (Note: Always include a maximum amount payable.) Section V of the original agreement should be reviewed prior to negotiating any supplements,
4. A specific time for beginning/continuing work under the supplement and completing the project in calendar days or day and month of the year,
5. A summary of the estimated costs of the original agreement plus those of the supplement(s),
6. Provisions that give both parties of the agreement the authority to act, and
7. Specific rates of pay shall be established for the supplemental agreement in the same manner as described in Section 31.32 Agreement Types/Payment Options, Sub-Part d, Specific Rates of Pay.

.43 Patent or Royalty Rights. Agreements that involve research, developmental, experimental, or demonstration work may include patent or royalty rights. In this case, the Standard Agreement should be supplemented by adding the appropriate language to account for this. The Region Local Programs Engineer is to be contacted for assistance in developing these supplemental agreements.

.44 Risk Management and Added Insurance Requirements. The Agency may change Section XIII of the Standard Agreement to reduce the requirement for the Consultant Professional Liability from one million dollars to the amount of the Agreement; whichever is the lesser of the two. This should be done for work that involves minimal risk, such as studies. For many consultant firms, covering the one million dollar liability would be an added cost to their overhead or directly to the project.

In the event the Agency determines that added liabilities or an insurance policy are warranted beyond the amount allowed in the Standard Agreement, they should negotiate this with the Consultant after the selection process is complete. This ensures that engineering qualifications, rather than the ability to obtain insurance, is the criteria for selection.

The Agency will determine the sufficiency of insurance normally provided within the consultant's overhead costs, and will identify the costs beyond that amount on Exhibit L. This exhibit is not needed if the standard agreement provisions are used. These costs will be considered direct project costs, and will not be billed to an FHWA funded project. In the event that Exhibit L is warranted, it should be sent with the risk analysis to the Region Local Programs Engineer for approval, who will forward it to Headquarters for review, prior to execution by the Agency and the consultant.

The Agency risk analysis should show that the work warrants this added cost and that consideration has been given to less costly solutions, including assuming the risk; insuring the risk outside of the agreement as an Agency cost; or adding a third tier of engineering overview to check the work.

To calculate the risk requires an ability to judge the likely amount of a jury's award if liability is determined. A suggested method is to determine the number of comparative cases presently existing within this state and to develop the probabilities based upon historic awards.

31.5 Audit Requirements

A Pre-Award Audit is no longer required. The Agency is now to negotiate the consultant's fee using the audited overhead rate for the consulting firm obtained from WSDOT's Audit Office, the Payroll Register of the firm, and the calculation of the consultant's profit/fixed fee, or percentage, to validate and negotiate financial information supplied by a consultant in a cost proposal. (See 31.3 Negotiations with the Selected Firm.) The consultant is to also be aware of FHWA's cost eligibility and documentation requirements of 49 CFR 18.

If the Agency has questions about the information provided, it may request a Pre-Award Audit. In the event a project must begin before an audit can be completed, provisional wages based on industry standards may be paid through completion of the audit with wage adjustments made in a supplemental agreement. If the Local Agency requests a Pre-Award Audit, the Local Agency Agreement should anticipate a charge averaging \$5,000 for these costs.

WSDOT and/or FHWA may at their discretion require an intermediate or post audit for any project exceeding \$100,000. The Agency, WSDOT External Audit Office, or FHWA will determine the need for either of these.

31.6 Oversight of the Agreement and Project Closure

The Local Agency shall assign one of its personnel as project administrator to work with the consultant. The project administrator's responsibilities are to:

1. Prepare supplements to existing agreements for services beyond the scope of the original agreement and include the Agency's independent estimate of the costs for the work involved,
2. Ensure that no work is done or costs incurred until the agreements and supplements are approved by the approving authority and executed by the proper parties,
3. Conduct regular meetings with the consultant to track progress and identify potential concerns,
4. Act as a liaison between the Agency and the consultant to assure compliance with the terms of the agreement, including OEO provisions and the use of mandatory forms,
5. Monitor the consultant's progress reports to ensure that problem areas are reported and corrective action taken,
6. Make sure that all work is within the agreement's scope of work,
7. Establish controls to monitor the time for completion of the agreement to ensure that the specified time limitations are not exceeded,
8. Ensure the accuracy of bills presented by the consultant and their consistency with the work performed,
9. Maintain cumulative cost records to assure that costs are allowable, allocable, and reasonable. Track bills to ensure compliance with agreement and fixed fees. (See Appendix 31.912 "Sample Invoice Tracking Sheet"),
10. Establish controls to prevent overpayment of the agreement and fixed fees, and
11. Ensure that all terms and conditions of the agreement have been met prior to final release of the consultant.

.61 Invoicing. The invoice will include the following:

1. By name, all employees that worked on the project during the billing period,
2. The classification of each employee, the hours worked, the actual hourly payroll rate, and the total wages paid, and
3. Direct non-salary costs. Non-salary costs should be supported for auditing purposes by copies of the invoice or billing instruments the consultant received for payment. Either the consultant or the Agency may retain these copies.

The Local Agency may disallow all or part of a claimed cost, which is not adequately supported by documentation.

.62 Documentation. Original documents may include but are not limited to signed time sheets, invoices, payroll records, rental slips, and gasoline tickets that support the costs billed to WSDOT. The consultant is responsible to account for costs and for maintaining records, including supporting documentation adequate to demonstrate that costs claimed have been incurred, are allocable to the agreement, and comply with Part 31 of CFR 48. Time sheets should document hours worked, the billing rate of pay, and must be signed by the supervisor or his designee and the employee. Records will be retained for a period of three years after receipt of final payment.

.63 Closure. Upon completion of the work under the consultant agreement, the Agency will ensure that all terms and conditions of the agreement have been complied with and that all services to be performed under the agreement have been completed prior to final release of the consultant. The Local Agency should evaluate the consultant's performance and retain this in their records, (see Appendix 31.913).

31.7 Appendices

- 31.91 Sample Personal Services Contract for Appraiser
- 31.92 Sample Consultant Agreement for Negotiation Services
- 31.93 Information Required in Agreements for Non-CA Agencies
- 31.94 Sample Advertisement
- 31.94(a) Submittal Information Form (Prime)
- 31.94(b) Submittal Information Form (Sub-consultant)
- 31.95 Request for Sole Source Consultant Services
- 31.96 Independent Estimate for Consulting Services
- 31.97 Consultant Fee Calculation Worksheet
- 31.98 Sample Record of Negotiations

- 31.99 Local Agency Standard Consultant Agreement, includes Exhibits A-1 Scope of Work, A-2 Task Order Assignment, B-1 DBE Utilization Certification, C Electronic Exchange of Engineering and Other Data, D-1 Lump Sum Payment, D-2 Cost Plus Fixed Fee Payment, D-3 Negotiated Hourly Rate Payment, D-4 Provisional Hourly Rate Payment, E-1 Consultant Fee Determination Sheet—Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work, E-2 Consultant Fee Determination Worksheet—Specific Rates of Pay, F Breakdown of Overhead Cost, G Subcontracted Work, G-1 Subconsultant Fee determination Worksheet, G-2 Breakdown of Subconsultants Overhead Cost, H Title VI Assurances, I Payment Upon Termination of Agreement, J Alleged Consultant Design Error Procedures, K Consultant Claim Procedures, L Supplemental Language for Insurance Requirements, M-1(a) Certification of Consultant, M-1(b) Certification of Agency Official, M-2 Debarment Certification, M-3 Federal Fund Restrictions, M-4 Current Cost or Pricing Data
- 31.910 Supplemental Signature Page for Standard Consultant Agreement
- 31.911 Supplemental Agreement
- 31.912 Sample Invoice Tracking Sheet
- 31.913 WSDOT Performance Evaluation Consultant Services

PERSONAL SERVICES CONTRACT

It is mutually agreed between the Washington State Department of Transportation, hereinafter referred to as the "Department," and the undersigned, hereinafter referred to as the "Contractor," that:

1. The Contractor shall provide the services specified in Section 18 of this contract. The Contractor shall not be entitled to compensation for the services rendered under the terms of this contract unless and until the services are satisfactory to the Department. Any dispute relating to the quality of acceptability of the services furnished; to the acceptable fulfillment and performance of the contract on the part of the Contractor; and/or compensation due the Contractor shall be decided by the Chief Right of Way Agent, Department of Transportation. All reports called for under the terms of this contract shall become the property of and shall be retained by the Department.
2. The Department shall have the right to cancel services under the terms of this contract by giving notice by certified mail to the Contractor, and shall be liable for services at the rates specified herein, less any prior interim payments only to the date of receipt of such notice by the Contractor. Upon payment of such sums, the Department shall be discharged from all liability to the Contractor and this contract shall be terminated.
3. If, due to the Contractor's error or oversight, corrections to the services contracted for herein are necessary, the Contractor will make such corrections at no additional cost to the Department and will submit such corrections to the Department within ten (10) days of receipt of the Department's request.
4. The services to be furnished under the terms of this contract shall be performed by the Contractor and the Contractor's bona fide employees, and shall not be delegated or subcontracted to any other person or firm.
5. The Contractor warrants that it has not employed or retained any company, firm, or person, other than a bona fide employee working exclusively for the Contractor, to solicit or secure this contract; and that it has not paid or agreed to pay to any company, person or firm, other than a bona fide employee working exclusively for the Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the Department shall have the right to annul this contract.
6. During the performance of this contract, the Contractor, for itself, its assigns and successors in interest, agrees as follows:
 - a. **COMPLIANCE WITH LAWS AND REGULATIONS:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract. The Contractor shall comply with the State Law Against Discrimination, Chapter 49.60 RCW and any regulations adopted thereto.
 - b. **NONDISCRIMINATION:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap unless based upon a bona fide occupational qualification, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Chapter 49.60 RCW or by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - c. **SOLICITATIONS FOR SUBCONTRACTORS, INCLUDING PROCUREMENT 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 procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the above grounds.
 - d. **INFORMATION AND REPORTS:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, or other sources of information, and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, directives, or laws. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
 - e. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate including but not limited to:
 - (1) withholding of payments to the contract until the contractor complies, and/or
 - (2) cancellation, termination or suspension of the contract, in whole or in part
 - f. **INCORPORATION OF PROVISIONS:** The Contractor shall include the provisions of paragraphs a through e in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the State Department of Transportation or the Federal Highway Administration

- may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the State Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
7. The Contractor warrants that, if it is fully or partially employed by any public agency other than the Department, its acceptance of this contract is with the consent of such agency; that the Contractor shall spend no time in the performance required in this contract during which time the Contractor would normally be employed and paid by such agency; and that the acceptance of this contract will not interfere with any obligations the Contractor may have to such agency.
 8. The Contractor agrees to indemnify, defend and hold the State and its officers and employees harmless from and shall process and defend all its own expense all claims, demands or suits at law or equity arising out of this Agreement and/or the Contractor's and/or its subcontractor's performance or failure to perform any and all duties prescribed by the Agreement; provided that nothing herein shall require the Contractor to indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the conduct of the State, its officers or employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Contractor's agents or employees and (b) the State, its agents, officers and employees, this indemnity provision with respect to claims or suits based upon such negligence shall be valid and enforceable only to the extent of the Contractor's negligence or the negligence of the Contractor's agents or employees.
 9. The Contractor agrees that any duly authorized representative of the Department or of the Federal Highway Administration in the official conduct of its business shall have access to and the right to examine any directly pertinent books, documents, papers, photographic negatives, and records of the Contractor involving the services provided under the terms of this contract at any time during normal business hours during the life of this contract and for three years after the date of the final payment under this contract.
 10. The Department is contracting for the Contractor's independent performance of the specified services. Should the Department employ another contractor to perform the same services, the Contractor shall not discuss or otherwise exchange information with such other contractor.
 11. The Contractor will not commence work under this contract, or any revision thereto, until a commencement date is provided in writing by the Department. Billings for services performed prior to the said commencement date will not be honored.
 12. In the performance of the services under this contract, the Contractor shall comply with all applicable Departmental regulations, State and Federal laws, regulations and procedures.
 13. The Contractor shall remove any employee from assignment to perform services under this contract immediately upon receipt of written request to do so from the Department's Chief Right of Way Agent.
 14. The Contractor shall comply with the Federal Fair Labor Standards Act and any other legislation affecting its employees and the rules and regulations issued thereunder; and shall save the Department free, clear and harmless from all actions, claims, demands and expenses arising out of said Act and any rules and regulations that are or may be promulgated in connection therewith.
 15. The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income or any other form of taxes fees, licenses, excises, or payments required by any Federal or State legislation which are now or which may be enacted during the term of this contract as to all the Contractor's employees, and as to all the duties, activities, and requirements of the Contractor in the performance of this contract.
 16. Upon completion or termination of this contract, the Contractor shall turn over all documents, records and file materials to the Department
 17. The services required under this contract are in connection with the following project:
Project No.: _____ ; Title: _____
Federal Aid No.: _____ ; Charge No.: _____
 18. The Contractor shall provide the following described services under the terms of this contract:
 19. The Contractor shall be paid _____ dollars (\$ _____)
for all services and expenses under this contract; provided that the total reimbursement under this contract shall not exceed _____ dollars (\$ _____).
Such payment shall include all the Contractor's expenses in the performance of this contract unless otherwise specified in Section 25. The Contractor's invoice shall include: the project title, parcel numbers, description of the service rendered, the number of days or partial days allocable to each parcel, and the dates worked.
 20. The project for which the services of the Contractor are required may involve litigation of claims against or brought by the State. All work performed by the Contractor is strictly confidential. No disclosure of the work performed by the Contractor shall be permitted without the prior express consent of the Department. The services to be performed

under this contract do not include services as an expert witness; in the event of the commencement of litigation, services as an expert witness would be the subject of a separate agreement.

21. The Contractor shall satisfactorily complete the services contracted for herein on or before _____
On said date this contract shall terminate. Billings for services performed after the said termination date will not be honored.
22. Revisions to this contract may be made only by the mutual agreement of both parties to this contract to execute a Contract Revision.
23. To assist the Contractor in fulfilling the termination of this contract, the Department will furnish the following:

24. The Appraisal Program Manager, Joseph H. Granger, (206)753-6239, will supervise the performance of this contract and is the Contractor's contact with the Department in all matters pertaining to this contract.
25. Special provisions:

26. This Personal Service Contract is hereby tendered and the terms and obligations hereof shall not become binding on the State of Washington unless and until accepted and approved hereon in writing for the State of Washington, Department of Transportation, by the Secretary of Transportation or his duly authorized representative.

Dated this _____ day of _____

Approved as to form:

CONTRACTOR

_____/s/_____/ _____ 10-26-81
Assistant Attorney General, Date

By _____

Contract proposed by:

_____ Title

Appraisal Program Manager, WSDOT Date

Accepted and Approved:
**WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION**

_____ Typed Name

_____ Address

_____ By

_____ Title

_____ Phone Tax ID Number

_____ Date

_____ Contract Number

Federal Aid No. _____

CONSULTANT AGREEMENT FOR NEGOTIATION SERVICES

THIS AGREEMENT, made and entered into on this _____ day of _____, 198____, by and between the CITY/COUNTY of _____, WASHINGTON, hereinafter called the "AGENCY," and the consulting firm of _____

whose address is _____, the location in Washington State at which work will be available for inspection, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY has not sufficient qualified employees to accomplish the Right-of-Way Acquisition and Relocation Services on this proposed contract and the AGENCY deems it advisable and is desirous of engaging the professional services and assistance of a qualified consulting firm to provide the necessary acquisition services, and

WHEREAS, the CONSULTANT has indicated that he desires to do the work set forth in the Agreement upon the terms and conditions set forth herein.

NOT, THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein below, the parties hereto agree as follows:

I PROJECT IDENTIFICATION

The project is entitled: _____
_____ The property is located in _____ (Section, Township, and Range). The project consists of _____ parcel(s) of real property to be acquired for highway purposes, and as shown on the AGENCY right-of-way plans which is made reference to and made a part of this contract.

II SCOPE OF WORK

The CONSULTANT shall acquire on behalf of the AGENCY the real property referenced in Section I of this Agreement, using procedures specified by the AGENCY and in accordance with the Washington State Department of Transportation *Right-of-Way Manual*, which by this reference is made a part of this Agreement.

The service rendered by the CONSULTANT shall be as follows:

A. APPRAISAL:

The CONSULTANT shall furnish appraisals on all parcels in the project to the AGENCY. The AGENCY shall provide for appraisal review. The appraisals will conform to the form shown in LOCAL AGENCY GUIDELINES MANUAL, WASHINGTON STATE DEPARTMENT OF TRANSPORTATION which by reference is made a part of this Agreement.

(If appraisal is not to be included in Agreement, then strike out.)

B. ACQUISITION:

Upon notification and receipt of Determination of Value from the AGENCY, the CONSULTANT will commence negotiations. If it becomes apparent that negotiations have reached an impasse

and sufficient time has passed for the property owner to make a settlement decision, then the CONSULTANT shall provide the AGENCY with written notification. The filing of condemnation proceedings shall be the responsibility of the AGENCY.

Upon completion of negotiations with property owners and clearing of all lien encumbrances, the CONSULTANT shall transmit to the AGENCY all instruments, including payment vouchers, for their acceptance or rejection. The recording of instruments and payment to property owner will be the responsibility of the AGENCY.

C. RELOCATION ASSISTANCE:

The Contractor will provide relocation assistance services to all displacees on the project in accordance with state and federal standards, and as directed by the County.

III OBLIGATIONS OF CONSULTANT

- A. CONSULTANT shall prepare all documents necessary to convey to the AGENCY, valid title to the needed rights-of-way and report the results of negotiations, working time, and business expense on the project.
- B. CONSULTANT shall assure that no less than three personal contacts are made with each interested party (owner) in order to acquire valid title to needed property rights as shown on the project map or as instructed in writing by the AGENCY.
- C. CONSULTANT shall on the first (but no later than the second) contact explain the AGENCY's offer orally and in writing and request execution of appropriate conveyance by the owner to the AGENCY of needed rights-of-way in consideration of the amount of the offer made.
- D. CONSULTANT shall assure that negotiations shall be performed only to the limit of authority delineated by the title reports, project maps, determination of fair market value, manual of procedures, acquisition schedule, or written instructions issued by the AGENCY.
- E. CONSULTANT shall assure that a complete, legible diary of each contact to include the time, place, amount of offer, to whom offer was made, all parties present, and owner's response in a form furnished by the AGENCY and to be returned to the AGENCY for permanent records.
- F. CONSULTANT shall attempt to obtain release of all liens of encumbrances necessary to vest valid title to required property rights in the AGENCY, however, such liens or encumbrances that cannot be released, the CONSULTANT shall notify the AGENCY in writing for instructions.
- G. CONSULTANT on or before project cut-off date shall furnish transmittal of diary, miscellaneous correspondence, vouchers, and valid conveyances pursuant to all negotiated transactions or written recommendations pursuant to future negotiations in those cases where settlement failed. All work shall be submitted as completed to the AGENCY for acceptance or rejections.
- H. CONSULTANT shall provide relocation assistance to persons or businesses that will be displaced, computing relocation benefits, monitoring progress of individual relocations, and work within the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act.
- I. CONSULTANT shall work such days and hours as may be necessary to meet with interested property owners that may not be available during regular working days or hours.
- J. CONSULTANT shall abide by decisions made by the AGENCY on questions concerning acceptability of work performed on the project. All decisions made by the AGENCY are final.
- K. CONSULTANT shall correct any deficient work performed by him or his employees on the project and deliver corrected work to the AGENCY at his own expense. Corrected work shall be delivered to the AGENCY within _____ days from the date of request.
- L. CONSULTANT shall remove any employee from assignment to this project immediately upon written request by the AGENCY.

M. The CONSULTANT agrees to make available for inspection and audit all records of this Agreement to the AGENCY, state, and federal governments at any time during the term of this Agreement and for a period of three years from the date of final payment.

N. CONSULTANT shall be available for consultation with AGENCY, state, and federal representatives after completion of this Agreement should the need arise.

Note: Either of the following two (2) sentences should be added:

1. Said consultation shall be a part of this Agreement if it has to do with explanation of costs and settlement and be of no further cost to the AGENCY.
2. Said consultation shall be contracted for by separate agreement if it involves litigation.

Note: If appraisals are being subcontracted for then, agreement should state the name and address of firm or individual, amount of contract, and show amount (charge) for each parcel.

IV OBLIGATIONS OF AGENCY

A. AGENCY shall furnish applicable manuals of procedures, appropriate policy directives concerning procedures or expense reimbursement, deviating instructions in writing, acquisition schedule, title reports, appraisals, determinations of fair market value, project maps, engineering data, all printed forms for conveyancing or reporting negotiated transactions or recommendations according to AGENCY procedures.

(If any of the above are to be part of CONSULTANTS obligations then remove.)

- B. The AGENCY shall furnish final decisions in writing on questions not covered by the above material.
- C. The AGENCY shall review and accept (approved) or reject any work performed by the CONSULTANT on the project in ten (10) days or less from the date of receipt by the AGENCY.
- D. The AGENCY shall provide the following for use by the CONSULTANT in the acquisition of rights-of-way for this project:
 1. Office spaces.
 2. Telephone.
 3. Typing and duplicating equipment.
 4. Stationery.
 5. Postage.

(The above paragraph may not be included; if so, remove.)

V COMPENSATION

A. The CONSULTANT shall be paid on a (day/mo) basis for work satisfactorily completed based upon the following specified rates and such rates will be applicable throughout the life of the Agreement.

Project Manager \$ _____ per (hr/day/month)

Negotiator (acquisition agent) \$ _____ per (hr/day/month)

Appraiser \$ _____ per parcel
(eliminate appraiser if not part of agreement)

Relocation Agent \$ _____ per (hr/day/month)

Meals and Lodging Actual expense not to exceed State of Washington's
per diem expense.

Travel As authorized by Agency in writing.

Mileage (automobile) \$ _____ per mile for on job costs

Miscellaneous Actual expense, such as parking, ferry charges, photo copy costs, long distance phone costs, etc.

- B. The CONSULTANT shall on or before the _____ day of each month, invoice the AGENCY for services rendered during the previous month identifying the project, parcels worked on, and days worked. CONSULTANT will also provide a written progress report on this project on a monthly basis.
- C. The total reimbursement of compensation and expenses for services under provisions of this Agreement is estimated to be: \$ _____. The amount shall not be exceeded without execution of an amendment to this Agreement.

Reimbursement is based on the following:

Photographs	\$ _____
Research Property Owners Address	\$ _____
Prepare and Mail Preacquisition Letters	\$ _____
Prepare and Deliver Formal Offer Letters	\$ _____
Prepare Legal Descriptions	\$ _____
Negotiation Labor	\$ _____
Appraisal	\$ _____
Relocation Services	\$ _____
Processing	\$ _____
Prepare Conveyance Documents	\$ _____
Misc. Meetings and Progress Reports	\$ _____
TOTAL	\$ _____

(Portions not needed should be eliminated.)

VI TIME OF BEGINNING AND COMPLETION

- A. The CONSULTANT shall not begin work under the terms of this Agreement until authorized in writing by the AGENCY. The time required, in calendar days, for completion of all work under this Agreement shall be _____ days following written authorization to begin.

Established completion time shall not be extended because of any unwarranted delays attributable to the CONSULTANT, but may be extended by the AGENCY or because of unavoidable delays caused by an act of God or governmental actions or other conditions beyond the control of the CONSULTANT.
- B. Upon completion of this Agreement all documents and records shall be turned over to the AGENCY.

VII AMENDMENTS AND REVISIONS

Should the AGENCY make changes within the scope of this Agreement by giving notice to CONSULTANT and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this Agreement, an appropriate adjustment shall be made. No change by CONSULTANT shall be recognized without written approval by the AGENCY. Nothing in this article shall excuse CONSULTANT from proceeding with performance of the Agreement as changed hereunder. All changes shall be submitted as an amendment to the basic Agreement and approved by the State of Washington, Department of Transportation, before the work is undertaken in order to become eligible for federal participation.

VIII ASSIGNMENT OF AGREEMENT

CONSULTANT shall not assign this Agreement in whole or in part, nor shall CONSULTANT subcontract any of the work to be performed herein without the prior written consent of the AGENCY.

IX TERMINATION OF CONTRACT

- A. Agency may terminate this contract by notifying CONSULTANT _____ days in advance of termination in writing by Certified Mail of its intentions so to do at any time and for any reason whatsoever. In the event of such termination, AGENCY shall be obligated to reimburse CONSULTANT for services performed and expenses incurred to date of termination at the rates set forth under Articles _____ and _____ herein, less prior interim payments, if any. Upon payment of such sums, AGENCY shall be discharged from all liability to the CONSULTANT hereunder and this Agreement shall be considered terminated unless extended in writing by mutual agreement between the parties hereto.
- B. Upon termination of contract under Paragraph A above, all documents, records, and file materials shall be turned over to the AGENCY by the CONSULTANT.
- C. All services to be rendered under this contract shall be subject to direction and approval of the AGENCY.

X EMPLOYMENT

The CONSULTANT warrants that he had not employed or retained any company or person, other than a bona fide employe working solely for the CONSULTANT, to solicit or secure this Agreement and that he 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, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the AGENCY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the 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, while engaged in the performance of any work or services required by 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 or might arise under the Workman's Compensation Act on behalf of said employees, while so engaged and any and all claims made by a third party as a consequence of any negligent act or omission on the part of the CONSULTANT's employees, 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 the 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 FHWA, state, or AGENCY, except regularly retired employees, without written consent of the public employer of such person.

If during the time period of this Agreement, the CONSULTANT finds it necessary to increase his professional, technical, or clerical staff as a result of this work, he will actively solicit minorities through his advertisement and interview process.

During the performance of this Agreement, the CONSULTANT, for itself, its assignees, and successors in interest, hereinafter referred to as the CONSULTANT, agrees as follows:

- A. COMPLIANCE WITH REGULATIONS: The CONSULTANT will comply with the regulation of the Department of Transportation relative to nondiscrimination in federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations, which are herein incorporated by reference and made a part of this Agreement.

- B. **NONDISCRIMINATION:** The CONSULTANT, with regard to the work performed by it, will not discriminate on the grounds of race, religion, color, national origin, or sex in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix A-11 of the Regulations.
- C. **SOLICITATION FOR SUBCONTRACTORS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations, either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, religion, color, national origin, or sex.
- D. **INFORMATION AND REPORTS:** The CONSULTANT will provide all information and reports required by the Regulations, or orders and instruction 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 AGENCY or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required by a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY or the FHWA as appropriate and shall set forth what efforts it has made to obtain the information.
- E. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONSULTANT's noncompliance with the discrimination provisions of this contract, the AGENCY shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
1. Withholding of payments to the CONSULTANT under the contract until the CONSULTANT complies and/or
 2. Cancellation, termination, or suspension of the contract in whole or part.
- F. **INCORPORATION OF PROVISIONS:** The CONSULTANT will include the provisions of paragraph (A) through (F) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The CONSULTANT will take action with respect to any subcontract or procurement as the AGENCY or the FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; PROVIDED, HOWEVER, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the AGENCY to enter into such litigation to protect the interests of the AGENCY and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

XI INSURANCE

Prior to beginning work under this Agreement, CONSULTANT shall provide evidence that policies providing the following coverage and limits of insurance are in full force and effect.

1. **GENERAL COMPREHENSIVE LIABILITY:** With respect to liability for injuries to or death of persons and with respect to liability for destruction of or damage to property, the insurance coverage shall be \$500,000 combined single limit and such coverage shall include the special provisions listed below:
 - a. The AGENCY shall be as an additional insured and the coverage shall be applicable to and protect the AGENCY from liability arising from or relating to CONSULTANT's activities relating to this Agreement. Such insurance shall be primary and other insurance maintained or carried by the

AGENCY shall be separate and distinct and shall not be contributing with the insurance listed hereunder.

- b. Such insurance shall include a “Cross Liability” or “Severability of Interest” clause.
 - c. Such insurance shall not include explosion, collapse, or underground exclusions commonly referred to as the “XCU” hazards.
2. AUTOMOBILE COMPREHENSIVE LIABILITY: With respect to liability for injury to or death of persons and with respect to liability for destruction of or damage to property, the AGENCY shall be insured and the insurance coverage shall be \$500,000 combined single limit. Such insurance shall be primary and other insurance maintained or carried by the AGENCY shall be separate and distinct and shall not be contributing with the insurance listed hereunder.

Failure of either or all of the insured to report a claim under such insurance shall not prejudice the rights of the AGENCY thereunder. The AGENCY will have no obligation for the payments of premiums because of its being an insured under such insurance. None of the policies issued pursuant to the requirements contained herein shall be cancelled, allowed to expire, or changed in any manner so as to affect the rights of the AGENCY thereunder until thirty (30) days after written notice of such intended cancellation, expiration, or change.

XII WAGE AND HOURS LAW COMPLIANCE

CONSULTANT shall comply with all applicable provisions of the Fair Labor Standards Act and any other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the AGENCY free, clear, and harmless from all actions, claims, and expenses arising out of said Act and rules and regulations that are or may be promulgated in connection herewith.

XIII SOCIAL SECURITY AND OTHER TAXES

CONSULTANT assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fee, licenses, excises, or payments required by any city, county, federal, or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the CONSULTANT and as to all duties, activities, and requirements by the CONSULTANT in performance of the work on this project and under this contract and shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations.

XIV DAMAGE CLAIMS

CONSULTANT shall indemnify and hold harmless the AGENCY from and against all claims for any and all damage, including but not limited to claims for damage to property or claims of misrepresentation in negotiations, due to negligence of the CONSULTANT or its employees including court costs and attorney’s fees, if any.

XV CONTENT AND UNDERSTANDING

This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement, or negotiation whether oral or written not set forth herein or in written amendments hereto duly executed by both parties.

XVI ATTORNEY'S FEES

If the AGENCY brings any action or suit relating to the enforcement of this Agreement or asking for any relief against CONSULTANT, declaratory or otherwise, arising out of this Agreement or if CONSULTANT brings any action or suit against the AGENCY, declaratory or otherwise, arising out of this Agreement, then the prevailing party in any of these events shall be paid its reasonable attorney's fees and costs and expenses expended or incurred in connection with any such suit or action.

XVII INDEPENDENT CONTRACTOR

The CONSULTANT shall at all times be an independent contractor and not an employee of the AGENCY, and shall not be entitled to compensation or benefits of any kind except as specifically provided for herein.

XVIII NOTICES

Any notice given by either party to the other hereunder shall be served, if delivered in person, to the office of the representative authorized and designated in writing to act for the respective party, or if deposited in the mail, properly stamped with the required postage and addressed to the office of such representative as indicated in this Agreement. Either party hereto shall have the right to change any representative or address it may have given to the other party by giving such other party due notice in writing of such change.

XIX CONFLICT OF INTEREST

The CONSULTANT hereby affirms that he has no present or contemplated future personal interest in the property, which is the subject matter of this Agreement.

XX GOVERNING LAW

This Agreement and the rights and obligations of the parties hereunder shall be governed by the laws of the State of Washington.

XXI AUTHORIZED REPRESENTATIVE

In performing the services defined herein, CONSULTANT shall report to:

Telephone Number
CONSULTANT's Representative is:
Telephone Number

XXII APPROVAL OF AGREEMENT

This Agreement shall become effective upon execution by the parties hereto.

(Consultant's Name) (Agency)

By: _____ By: _____
(Title) (Title)

APPROVED FOR USE:

APPROVED AS TO FORM:

Director of Real Estate Services (Agency Title)
Washington State Department
of Transportation

The following information must be included in agreements between non CA agencies and the consultant and is subject to approval by H&LP prior to execution:

1. Project location and termini.
2. A description of the work in sufficient detail so that an estimate of cost can be reasonably checked against the work.
3. An estimate of the total project cost.

Note: The above items are found in the Project Prospectus (Chapter 21).

4. A statement that the agency “does not have adequate qualified personnel to perform the additional work within the time limit.”
5. The approximate number of calendar days required by the consultant to do the work.
6. A supporting estimate showing the breakdown of work, including work-hours and average rate per work-hour, overhead and profit, and direct non-salary items that may be used during the life of the contract. This estimate should be itemized so that the selected consultant may fill out a similar estimate. Separate phases of work (i.e., preliminary engineering, construction engineering) shall be shown separately.

The estimate must be prepared using WSDOT Form 140-012, “Independent Estimate for Consulting Services” (see Forms). Show the date prepared and the signature of the person preparing the estimate. The estimate must be prepared prior to any negotiation with a consultant. The person preparing the estimate must be an agency employee or another consultant.

7. The selection procedures used in making their decision.

AGENCY NAME NOTICE TO CONSULTANTS FOR

PROJECT NAME

The AGENCY NAME solicits interest from consulting firms with expertise in Civil and Structural Design. Consultants will be considered for the following project.

PROJECT DESCRIPTION

The work to be performed by the CONSULTANT consists of preparing preliminary engineering and PS&E for improvement of 36th Street East to Jovita Boulevard East. The proposed improvements include widening the road to accommodate four lanes of traffic, improving intersection radii, increasing left turn storage, revisions to existing signal systems in order to accommodate the proposed improvements, and construction of retaining walls to provide for roadway widening. The major features of the project are as follows:

- Approximately 1.74 miles of widening for two additional lanes.
- Improving intersection radii to meet design standards.
- Environmental planning and preparation of permit applications.
- Signal modifications and design.
- Structural design for retaining walls and culvert extensions/replacements.
- Determination of R/W needs and R/W plan preparation.
- A partnering effort is possible to assist with short project schedule, coordination of management, decision-making, and interaction with the (Agency name) regarding structural issues and reviews.

SUBMITTAL

Submittals should include the following information: Firm name, phone and fax numbers; Name of Principal-in-Charge and Project Manager; and Number of employees in each firm proposed to project.

Submittals will be evaluated and ranked based on the following criteria:

- 1) Key personnel;
- 2) Firm experience with PS&E;
- 3) Firm experience with environmental planning and permitting process;
- 4) Ability to meet schedule;
- 5) Approach to project;
- 6) Familiarity with relevant codes and standards;
- 7) Past performance/references;
- 8) Ability to provide M/WBE participation.

Double rating will be given to criteria #2.

AGENCY NAME encourages disadvantaged, minority, and women-owned consultant firms to respond.

Please submit FOUR copies of your Statement of Qualifications to: Director of Services Consultant Agency Name, Address, and Contact Person by April 7, 2002 not later than 10:00 AM. No submittals will be accepted after that date and time. Any questions regarding this project should be directed to Director of Consultant Services, at Agency Phone

Persons with disabilities may request this information be prepared and supplied in alternate forms by calling collect (Alternate format Phone) dates of Publication: February 15, 1999 and February 22, 1999.

The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award.

Dates of publication: June 21, 1999, and June 28, 1999.

Submittal Information Form

Project Name or Roster Category:

Prime

Firm Name:			
Address:			
City:	State:	Zip Code:	County:
Phone:	Fax:	Company Web Site:	
Fed. Tax ID Number:	Unified Business Identifier Number:	D/M/WBE Certification Number:	
Year Firm Established:	SIC Code (Name):	NAICS Code (Name):	
Contact Person Regarding This Submittal's Information:			

Firm Type:

Sole Proprietor Partnership C – Corp. Limited Partnership Subchapter S Corp. Limited Liability Company

Annual Gross Receipt:

\$0 to \$1 Million \$1 Million to \$5 Million \$5 Million to \$10 Million \$10 Million to \$15 Million Over \$15 Million

Firms Areas of Expertise:

Note:

Firm Name: Please ensure that the firm name listed is the same firm name that is legally assigned to the federal tax ID number. Please do not use: DBA's – Doing Business As; Combination names when two firms are working together; derivatives of your legal name; Acronyms; etc.

Unified Business Identifier (UBI) Number: If your firm does not have a UBI number for Washington State, please put pending in the box. You will be required to acquire a UBI Number if you are awarded the contract.

Appendix 31.94(b) Submittal Information Form (Sub-consultant)

Submittal Information Form

Project Name or Roster Category:

Sub-consultant

Firm Name:			
Address:			
City:	State:	Zip Code:	County:
Phone:	Fax:	Company Web Site:	
Fed. Tax ID Number:	Unified Business Identifier Number:	D/M/WBE Certification Number:	
Year Firm Established:	SIC Code (Name):	NAICS Code (Name):	
Contact Person Regarding This Submittal's Information:			

Firm Type:

Sole Proprietor Partnership C – Corp. Limited Partnership Subchapter S Corp. Limited Liability Company

Annual Gross Receipt:

\$0 to \$1 Million \$1 Million to \$5 Million \$5 Million to \$10 Million \$10 Million to \$15 Million Over \$15 Million

Firms Areas of Expertise:

Note:

Firm Name: Please ensure that the firm name listed is the same firm name that is legally assigned to the federal tax ID number. Please do not use: DBA's – Doing Business As; Combination names when two firms are working together; derivatives of your legal name; Acronyms; etc.

Unified Business Identifier (UBI) Number: If your firm does not have a UBI number for Washington State, please put pending in the box. You will be required to acquire a UBI Number if you are awarded the contract.

Appendix 31.95 Request for Sole Source Consultant Services

Checklist for Submitting a Request for Sole Source Consulting Services

(Adapted in part from a WSDOT Memorandum: Request for Consultant Services, A&E Services Project Specific Sole Source)

The following checklist must be provided with requests to use sole source consultant services, rather than competitive bid procedures, on a project:

Agency: _____ Date: _____

Project Title: _____ Federal-Aid Number _____

A. Checklist for a Supplement to an Existing Agreement

Description of the Existing Project:

Initials	Date or N/A__	Checklist Items for a Supplement to an Existing Agreement
_____	_____	Date the project was originally advertised.
_____	_____	Date the original Agreement was executed.
_____	_____	Completion date of the original Agreement.
_____	_____	Total dollar amount of the original Agreement _____
_____	_____	Date Supplemental Agreement Number 1 was executed.
_____	_____	Completion date of Supplemental Agreement Number 1.
_____	_____	Total dollar amount of Supplemental Agreement Number 1
_____	_____	Describe the reason(s) for Supplemental Agreement Number 1:

(Note: Using an electronic form of this checklist, provide the above information for each existing Supplemental Agreement, numbering the Supplements sequentially.)

B. Checklist for Both a New Agreement and Supplement to an Existing Agreement

Initials	Date or N/A__	Checklist Items – New and Supplements to Agreements
_____	_____	Describe the proposed project for the Sole Source Agreement:
_____	_____	State the specific intended purpose of the Agreement and describe the services and/or deliverables that are needed: (Note: If two or more phases of work are anticipated, describe each phase separately.)
_____	_____	Date that the sole source consulting services are desired.
_____	_____	Duration of work/phase 1 of work _____ (Repeat this line for each phase of work, numbering them sequentially.)
_____	_____	Describe the funding sources of the project (including participation percentages):
_____	_____	Provide the estimated cost of the services that will be performed by the sole source consultant _____
_____	_____	Provide the estimated cost of services to be provided by a subconsultant _____
_____	_____	Describe the work to be performed by a subconsultant:

(Note: Provide the above information for each subconsultant.)

Initials	Date or N/A__	Checklist Item
_____	_____	Provide justification for the use of sole source consultant services (i.e., how it was determined that competitive procurement is not appropriate for this project) by giving an explanation to the items listed below:
_____	_____	Describe the unique nature of the services and/or the unique qualifications, abilities or expertise of the consultant to meet the agency's needs (e.g., describe how they are highly specialized or one-of-a-kind, include other factors which may be considered, such as what is their past performance, cost effectiveness [learning curve], and /or the follow-up nature of the required services):
_____	_____	Describe other special circumstances which may be relevant, such as confidential investigations, copyright restrictions or time constraints. If time constraints are applicable, identify when the agency was on notice of the need for the services and the entity that imposed the constraints, explain the authority (if not obvious) of the entity to impose them, and provide the timelines within which the work must be accomplished.
_____	_____	Describe the availability of consultants in the location required (e.g., if the proposed consultant is the only source available in the geographical area, state the basis for this conclusion and the rationale for limiting the size of the geographical area selected):
_____	_____	Disadvantaged Business Enterprise (DBE) goals may apply on a federally funded project. Explain reason(s) for waiving DBE participation goals:

AGENCY

Signature of Agency Official

Date

RECOMMENDED APPROVAL:

Region Local Programs Engineer

Date

APPROVAL:

Highways and Local Programs

Date

Appendix 31.96 Independent Estimate for Consulting Services



Independent Estimate For Consulting Services

Direct Salary Cost (Composite) :

Breakdown Of Work	Manhours	Average Rate Of Pay	Estimated Cost
Totals			

Overhead Cost (including payroll additives) _____ % \$ _____

Net Fee _____ % \$ _____

- A. Travel and Per Diem \$ _____
- B. Reproduction Expenses \$ _____
- C. Computer Expense \$ _____
- D. Communication \$ _____
- E. Sampling and Testing \$ _____
- F. Outside Consultants \$ _____
- G. Other (Specify) \$ _____

Total \$ _____

Contingencies _____ %

Sub-total \$ _____

*Contingencies \$ _____

Grand Total \$ _____

* Use only on cost plus net fee type of payment

Agency	File No.	Project No.
Project Title		
Estimate Prepared By: (signature)		Date

DOT Form 140-012 EF
Revised 9/98

Consultant Fee Calculation Worksheet

This technique will ensure consideration of the relative value of the appropriate factor in the establishment of a fee objective in the conduct of negotiating and provide a basis of documentation of the fee objective.

In negotiating a fee as an element of price, a reasonable fee shall be negotiated or determined for each agreement by using the following procedure as a guide:

Weighted Guidelines			
Factor	Rate	Weight	Value
Degree of Risk	25		
Relative Difficulty of Work	20		
Size of Job	15		
Period of Performance	15		
Assistance by the Agency	15		
Sub-consulting	10		
Total			

Based on the circumstances of each agreement and/or supplement, each of the above factors shall be weighted from .17 to .35 as indicated below. The value shall be obtained by multiplying the rate by the weight. The value column, when totaled, indicate the fair and reasonable fixed fee and/or profit percentage of the direct (raw) labor costs for the agreement and/or supplement.

Degree of Risk:

Where the design involves no risk or the degree of risk is very small the weighting should be .17; as the degree of risk increases, the weighting should be increased up to a maximum of .35. Agreements with options will have, generally, a higher weighted value than contracts without options for which quantities are provided. Other things to consider: nature of design, responsibility for design reasonableness of negotiated costs, amount, and type of labor included in costs, amount of executive management/principal time required.

Relative Difficulty of Design:

If the design is most difficult and complex, the weighting should be .35 and should be proportionately reduced to .17 on the simplest of jobs. This factor is tied in, to some extent, with the degree of risk. Some things to consider: the nature of the design, what is the time schedule; etc.; and rehabilitation of new work.

Size of Job:

All agreement (estimated) total costs less \$100,000 shall be weighted at .35. The fixed fee percentage should be proportionately weighted for those projects between \$100,000 and \$5,000,000 may be proportionately weighted from .34 to .21. Agreements from \$5,000,000 to \$10,000,000 may be proportionately weighted from .21 to .17 and work in excess of \$10,000,000 at .17

Period of Performance:

Agreements and/or supplements that are 24 months or longer, are to be weighted at .35. Agreements of lesser duration are to be proportionately weighted to a minimum of .17 for work less than two (2) months.

Assistance by the Agency:

To be weighted from .35 in those situations where few items are provided by the agency to .17 in those situations where the agency provides many items. Things to consider: existing design or plans, mapping, quantities, surveys, geotechnical information, etc.

Sub-consulting:

To be weighted in proportion to the amount of sub-consulting. Where 40% or more of the design is to be contracted, the weighting is to be .35 and such weighting proportionately decreased to .17 where all the design is performed by the consultant's own forces.

Note: If the Federal Highway Administration (FHWA) funds the project, the allowable fixed fee/profit percentage may not exceed 15% of direct labor plus overhead costs. In addition, the fixed fee/profit percentage may not exceed 35% of direct labor costs only.

When considered necessary because of unusual circumstances or local conditions, the range of weight may be increased above .35 if supported by adequate justification and approval of Highways and Local Programs.

Appendix 31.98

Sample Record of Negotiations

Name & Job Title: John Doe, PW Contracts Mgr.

_____ (signature)

Action	Date
1. Consulting firm of Acme Consulting selected.	2/15/99
2. Independent cost estimate of \$953,000.00 prepared by agency to address the following*: Develop design for Timermann Rd. Realignment from MP 53 to MP 57; including pre-engineering services of biological assessment, & NEPA/SEPA documentation.	2/25/99
3. Meeting held with consultant to ensure thorough understanding of the scope of work.	2/20/99
4. Consultant provided scope of work; request for proposal solicited.	2/15/99
5. Consultant submitted proposal in the amount of \$ 1,203,000.00.	2/27/99
6. Agency compared proposal with independent estimate and negotiation objectives were established	3/3/99
7. Agency negotiator contacted/ met with the consultant and identified the following as items which needed revision (i.e., excessive or insufficient principal/ management involvement, high overhead, [unallowable costs). ** Mark-ups on two subconsultants for environmental work not allowable; overhead rate of 35% too high based on nature of the work and degree of risk; consultant management & principal attendance redundant at meetings; subconsultant time excessive*	3/5/99
8. Agency revised detailed cost estimate based on negotiations.**	3/15/99
9. Consultant submitted revised proposal with following changes: ** Removed \$53,000 in subconsultant mark-ups; overhead rate reduced to 26%; reduced management attendance with principal to 2 meetings.*	3/20/99
10. Agency accepted final fee proposal of \$1,000,000.00 to address the following: Develop design for Timermann Rd. Realignment from MP 53 to MP 57; including pre-engineering services of biological assessment, and NEPA/SEPA documentation to be completed by Ace Engineering Services as subconsultant.*	3/23/99
11. (or alternately) Agency could not agree to final proposal and notified the consultant in writing of this fact.	3/23/99

The negotiations were conducted in good faith to ensure the fees were fair and reasonable. The procedures outlined in the LAG manual were followed.

* Additional detail should be expanded upon with documentation.

** These steps should be repeated as often as necessary, with documentation.

This example has been simplified and does not include the level of detail typically found in a complete record of negotiations.

Appendix 31.99 Local Agency Standard Consultant Agreement

Local Agency Standard Consultant Agreement	Consultant/Address/Telephone	
<input type="checkbox"/> Architectural/Engineering Agreement <input type="checkbox"/> Personal Services Agreement		
Agreement Number	Project Title And Work Description	
Federal Aid Number		
Agreement Type (Choose one) <input type="checkbox"/> Lump Sum Lump Sum Amount \$ _____ <input type="checkbox"/> Cost Plus Fixed Fee Overhead Progress Payment Rate _____ % Overhead Cost Method _____ <input type="checkbox"/> Actual Cost <input type="checkbox"/> Actual Cost Not To Exceed _____ % <input type="checkbox"/> Fixed Rate _____ % Fixed Fee \$ _____ <input type="checkbox"/> Specific Rates Of Pay <input type="checkbox"/> Negotiated Hourly Rate <input type="checkbox"/> Provisional Hourly Rate <input type="checkbox"/> Cost Per Unit of Work	DBE Participation <input type="checkbox"/> Yes <input type="checkbox"/> No _____ %	Federal ID Number or Social Security Number
	Do you require a 1099 for IRS? <input type="checkbox"/> Yes <input type="checkbox"/> No	Completion Date
	Total Amount Authorized \$ _____ Management Reserve Fund \$ _____ Maximum Amount Payable \$ _____	

Index of Exhibits

- Exhibit "A" - Scope of Work
- Exhibit "B" - DBE Participation
- Exhibit "C" - Electronic Exchange of Engineering and Other Data
- Exhibit "D" - Payment (by Agreement Type)
- Exhibit "E" - Consultant Fee Determination
- Exhibit "F" - Breakdown of Overhead Cost
- Exhibit "G" - Subcontract Work/Fee Determination
- Exhibit "H" - Title VI Assurances
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- Exhibit "J" - Alleged Consultant Design Error Procedures
- Exhibit "K" - Consultant Claim Procedures
- Exhibit "L" - Liability Insurance Increase
- Exhibit "M" - Certification Documents

THIS AGREEMENT, made and entered into this _____ day of _____, _____, Washington, hereinafter called the "AGENCY", and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the AGENCY desires to accomplish the above referenced project, and

WHEREAS, the AGENCY 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 for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance 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 work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor, and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II Scope of Work

The Scope of Work and projected level of effort required for this PROJECT is detailed in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT.

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 Federal, State, 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 work in sufficient detail so that the progress of the work can easily be evaluated.

The CONSULTANT, and each SUBCONSULTANT, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT, and each SUBCONSULTANT, shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT that may result in the termination of this AGREEMENT.

Participation for Disadvantaged Business Enterprises (DBE), if required, per 49 CFR Part 26, or participation of Minority Business Enterprises (MBE), and Women Business Enterprises (WBE), shall be shown on the heading of this AGREEMENT. If D/M/WBE firms are utilized, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made a part of this AGREEMENT. If the Prime CONSULTANT is a DBE firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY'S "DBE Program Participation Plan". The mandatory DBE participation goals of the AGREEMENT are those established by the WSDOT'S Highway and Local Programs Project Development Engineer in consultation with the AGENCY.

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."

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 this PROJECT, 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 PROJECT, shall be without liability or legal exposure to the CONSULTANT.

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 be completed by the date shown in the heading of this AGREEMENT under 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 or 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 work and services rendered under this AGREEMENT as provided in Exhibit "D" attached hereto, and by reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A post audit may be performed on this AGREEMENT. The need for a post audit will be determined by the State Auditor, WSDOT External Audit Office and/or at the request of the AGENCY'S PROJECT Manager.

VI Sub-Contracting

The AGENCY permits sub-contracts for those items of work as shown in Exhibit "G" attached hereto and by this reference made part of this AGREEMENT.

Compensation for this sub-consultant work shall be based on the cost factors shown on Exhibit "G."

The work of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the sub-consultant shall be substantiated in the same manner as outlined in Section V. All sub-contracts shall contain all applicable provisions of this AGREEMENT.

With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. No permission for sub-contracting shall create, between the AGENCY and sub-contractor, any contract or any other relationship. A DBE certified sub-consultant is required to perform a minimum amount of their sub-contracted agreement that is established by the WSDOT Highways and Local Programs Project Development Engineer in consultation with the AGENCY.

VII Employment

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 contract. 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 the 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 the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the United States Department of Transportation, or the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

VIII Nondiscrimination

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973
(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973
(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975
(42 USC Chapter 76 Section 6101 et seq.)

Civil Rights Restoration Act of 1987
(Public Law 100-259)

American with Disabilities Act of 1990
(42 USC Chapter 126 Section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

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 "H" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "H" 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 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 as shown in Exhibit "I" for the type of AGREEMENT used.

No payment shall be made for any work 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 herein above, 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 such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work 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 work required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the work 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 above.

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 it's employee's default 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.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the PROJECT, or dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of this AGREEMENT, if requested to do so by the AGENCY. This subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the AGENCY, if the AGENCY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the AGENCY'S concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work 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 work 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 complete work of this AGREEMENT as necessary to correct errors appearing therein, when required to do so by the AGENCY, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed work 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 XIV.

XI Disputes

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination 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 de novo 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", and disputes concerning claims will be conducted under the procedures found in Exhibit "K".

XII Venue, Applicable Law, and Personal Jurisdiction

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such 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 to such action shall 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.

XIII Legal Relations

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the AGENCY and the STATE and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the CONSULTANT'S negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the AGENCY or the STATE against and hold harmless the AGENCY or the STATE from claims, demands or suits based solely upon the conduct of the AGENCY or the STATE, their agents, officers and employees; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT'S agents or employees, and (b) the AGENCY or the STATE, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the AGENCY or the STATE of defending such claims and suits shall be valid and enforceable only to the extent of the CONSULTANT'S negligence or the negligence of the CONSULTANT'S agents or employees.

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

The CONSULTANT shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against 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.

Unless otherwise specified in the 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 the 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 and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar (\$1,000,000) combined single limit.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance secured by the CONSULTANT, the AGENCY will be named on all policies as an additional insured. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by the 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 the AGENCY.

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 shall be limited to the amount payable under this AGREEMENT or one million (\$1,000,000) dollars, whichever is the greater, unless modified by Exhibit "L". In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

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

XIV Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of the 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 work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the 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 the 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 the AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the 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.

XV Endorsement of Plans

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

XVI Federal and State Review

The Federal Highway Administration and the Washington State Department of Transportation shall have the right to participate in the review or examination of the work in progress.

XVII Certification of the Consultant and the Agency

Attached hereto as Exhibit "M-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "M-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "M-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "M-4" Certificate of Current Cost or Pricing Data. Exhibit "M-3" is required only in AGREEMENTS over \$100,000 and Exhibit "M-4" is required only in AGREEMENTS over \$500,000.

XVIII 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 an amendment to this AGREEMENT.

XIX 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 agreements contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

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.

By _____ By _____

Consultant _____ Agency _____

Exhibit A-1

Scope of Work

**Exhibit A-1
Scope of Work**

Project No. _____

Documents To Be Furnished By The Consultant

DOT Form 140-089 EF Exhibit A-1
Revised 6/05

Exhibit A-2

**Scope of Work
(Task Order Agreement)**

**Exhibit A-2
Scope of Work
(Task Order Agreement)**

Each item of work under this AGREEMENT will be provided by task assignment. Each assignment will be individually negotiated with the CONSULTANT. The amount established for each assignment will be the maximum amount payable for that assignment unless modified in writing by the AGENCY. The AGENCY is not obligated to assign any specific number of tasks to the CONSULTANT, and the AGENCY'S and CONSULTANT'S obligations hereunder are limited to tasks assigned in writing. Task assignments may include but are not limited to, the following types of work:

- A. _____
- B. _____
- C. _____
- D. _____
- E. _____
- F. _____

Task assignments made by the AGENCY shall be issued in writing by a Formal Task Assignment Document similar in format to page 2 of this exhibit.

An assignment shall become effective when a formal Task Assignment Document is signed by the CONSULTANT and the AGENCY, except that emergency actions requiring a 24-hour or less response can be handled by an oral authorization. Such oral authorization shall be followed up with a Formal Task Assignment Document within four working days, and any billing rates agreed to orally (for individuals, subconsultants, or organizations whose rates were not previously established in the AGREEMENT) shall be provisional and subject to final negotiation and acceptance by the AGENCY.

Formal Task Assignment Document

Formal Task Assignment Document

Task Number _____

The general provisions and clauses of Agreement _____ shall be in full force and effect for this Task Assignment

Location of Project: _____

Project Title: _____

Maximum Amount Payable Per Task Assignment: _____

Completion Date: _____

Description of Work:
(Note attachments and give brief description)

Agency Project Manager Signature: _____ Date: _____

Oral Authorization Date: _____ See Letter Dated: _____

Consultant Signature: _____ Date: _____

Agency Approving Authority: _____ Date: _____

DOT Form 140-089 EF Formal Task Assignment
Revised 6/05

Exhibit B-1

**Disadvantaged Business
Enterprise Utilization Certification**



**Disadvantaged Business
Enterprise Utilization Certification**
(Optional - Use only when DBE Consultant is Utilized)

To be eligible for award of this contract the bidder must fill out and submit, as part of its bid proposal, the following Disadvantaged Business Enterprise Utilization Certification relating to Disadvantaged Business Enterprise (DBE) requirements. The Contracting Agency shall consider as non-responsive and shall reject any bid proposal that does not contain a DBE Certification which properly demonstrates that the bidder will meet the DBE participation requirements in one of the manners provided for in the proposed contract. The successful bidder's DBE Certification shall be deemed a part of the resulting contract. Information on certified firms is available from OMBWE, telephone 360-753-9693.

_____ Name of Bidder certifies that the Disadvantaged Business Enterprise (DBE) Firms listed below have been contacted regarding participation on this project. If this bidder is successful on this project and is awarded the contract, it shall assure that subcontracts or supply agreements are executed with those firms where an "Amount to be Applied Towards Goal" is listed. (If necessary, use additional sheet.)

Name of DBE Certificate Number	Project Role * (Prime, Joint Venture, Subcontractor, Manufacturer, Regular Dealer, Service Provider)	Description of Work	Amount to be Applied Towards Goal **
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Disadvantaged Business Enterprise Subcontracting Goal: _____ DBE Total \$ _____ ***

* Regular Dealer status must be approved by the Office of Equal Opportunity, Wash. State Dept. of Transportation, on each contract.
 ** See the section "Counting DBE Participation Toward Meeting the Goal" in the Contract Document.
 *** The Contracting Agency will utilize this amount to determine whether or not the bidder has met the goal or the average goal attainment of all bidders. In the event of an arithmetic difference between this total and the sum of the individual amounts listed above, then the sum of the amounts listed shall prevail and the total will be revised accordingly.

Exhibit C

Electronic Exchange of Engineering and Other Data

Exhibit C Electronic Exchange of 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
 - B. Roadway Design Files
 - C. Computer Aided Drafting Files
 - D. Specify the Agency's Right to Review Product with the Consultant
 - E. Specify the Electronic Deliverables to Be Provided to the Agency
 - F. Specify What Agency Furnished Services and Information Is to Be Provided
- II. Any Other Electronic Files to Be Provided
- III. Methods to Electronically Exchange Data
 - A. Agency Software Suite
 - B. Electronic Messaging System
 - C. File Transfers Format

Exhibit D-1

Payment (Lump Sum)

Exhibit D-1 Payment (Lump Sum)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work." The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31. The estimate in support of the lump sum amount is attached hereto as Exhibit "D" and by this reference made part of this AGREEMENT.

- A. Lump Sum Agreement: Payment for all consulting services for this PROJECT shall be on the basis of a lump sum amount as shown in the heading of this AGREEMENT.
 - 1. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."
 - 2. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of costs on a monthly basis. 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 rate, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. 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 work 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) 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. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

- D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) 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 contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

Exhibit D-2

Payment (Cost Plus a Fixed Fee)

Exhibit D-2 Payment (Cost Plus a Fixed Fee)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work." The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, direct non-salary costs, and fixed fee.

1. Direct Salary Costs: The Direct Salary Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.
2. Overhead Costs: Overhead Costs are those costs other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The two options are explained as follows:
 - a. Fixed Rate: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.
 - b. Actual Cost: If this method is indicated in the heading of the AGREEMENT the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.

A summary of the CONSULTANTS cost estimate and the overhead computation is shown in Exhibit "E" attached hereto and by this reference made part of this AGREEMENT. When an Actual Cost method is used, the CONSULTANT (prime and all sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an overhead schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the overhead rate for billing purposes. It shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed overhead costs until such time as the required information is received and an overhead rate for billing purposes is approved.

The AGENCY, STATE and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. 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 sub-consultant costs.
 - a. Subconsultant costs will include a Sub-Consultant Oversight mark-up of 4% as allowed in accordance with 48 CFR 31.2 Subconsultant costs including Oversight Markup must be itemized on the Subconsultant Fee Determination - Summary sheet attached as Exhibit G-1.
 - b. Air or train travel will be reimbursed only to economy class levels 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 AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."
 - c. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
 - d. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
 - c. All above charges must be necessary for the services provided under this AGREEMENT.
4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in the heading of this AGREEMENT under Fixed Fee. This amount does not include any additional Fixed Fee, which could be authorized from the Management Reserve Fund. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."

5. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."⁶ Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the calculated overhead and fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct Salary, Direct Non-Salary, and allowable Overhead Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed salary costs for CONSULTANT 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 PROJECT at the time of the interview.
- C. 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 work 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) 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. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

Exhibit D-3

Payment (Negotiated Hourly Rate)

Exhibit D-3 Payment (Negotiated Hourly Rate)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

1. Hourly Rates: The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibit "E" and "F" attached hereto and by this reference made part of this AGREEMENT. The rates listed shall be applicable for the first twelve (12) month period and shall be subject to negotiation for the following twelve (12) month period upon request of the CONSULTANT or the AGENCY. If negotiations are not conducted for the second or subsequent twelve (12) month periods within ninety (90) days after completion of the previous period, the rates listed in this AGREEMENT, or subsequent written authorization(s) from the AGENCY shall be utilized. The rates are inclusive of direct salaries, payroll additives, overhead, and fee. The CONSULTANT shall maintain support data to verify the hours billed on the AGREEMENT.
 2. 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 sub-consultant costs.
 - a. Subconsultant costs will include a Sub-Consultant Oversight mark-up of 4% as allowed in accordance with 48 CFR 31.2 Subconsultant costs including Oversight Markup must be itemized on the Subconsultant Fee Determination - Summary sheet attached as Exhibit G-1.
 - b. Air or train travel will be reimbursed only to economy class levels 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 AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."
 - c. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
 - d. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.
- c. All above charges must be necessary for the services provided under this AGREEMENT.

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3. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."
4. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
5. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly billing shall be supported by detailed statements for hours expended at the rates established in Exhibit "E", 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 PROJECT at the time of the interview.
6. 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 work 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) 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. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

7. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY, STATE and the United States, for a period of three (3) 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 contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

Exhibit D-4

Payment (Provisional Hourly Rate)

Exhibit D-4 Payment (Provisional Hourly Rate)

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31.

1. Hourly Rates: The CONSULTANT shall be paid by the AGENCY for work done based upon the provisional hourly rates shown in Exhibit "E" and "F" attached hereto and by this reference made part of this AGREEMENT. The actual hourly rates will be determined by an audit of the CONSULTANT'S last completed fiscal year and/or their current projected fiscal year. The provisional and/or audited rates listed shall be applicable for the first twelve (12) month period and shall be subject to negotiation for the following twelve (12) month period upon request of the CONSULTANT or the AGENCY. If negotiations are not conducted for the second or subsequent twelve (12) month periods within ninety (90) days after completion of the previous period, the rates listed in this AGREEMENT, or subsequent written authorization(s) from the AGENCY shall be utilized. The rates are inclusive of direct salaries, payroll additives, overhead, and fee. The CONSULTANT shall maintain support data to verify the hours billed on the AGREEMENT.

In the event re-negotiation of the hourly rates is conducted, the AGENCY reserves the right to audit for any change in the overhead rate currently in use by the CONSULTANT and modify the hourly rates to be paid to the CONSULTANT subsequent to the re-negotiation accordingly. Any changes in the CONSULTANT'S fixed hourly rates may include salary or overhead adjustments.

2. 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 sub-consultant costs.
 - a. Subconsultant costs will include a Sub-Consultant Oversight mark-up of 4% as allowed in accordance with 48 CFR 31.2 Subconsultant costs including Oversight Markup must be itemized on the Subconsultant Fee Determination - Summary sheet attached as Exhibit G-1.
 - b. Air or train travel will be reimbursed only to economy class levels 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 AGENCY'S Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with 48 CFR Part 31.205-46 "Travel Costs."
 - c. The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT.
 - d. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request.

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Revised 8/07

- c. All above charges must be necessary for the services provided under this AGREEMENT.
3. Management Reserve Fund: The AGENCY may desire to establish a Management Reserve Fund to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the Management Reserve Fund is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall be made in accordance with Section XIV, "Extra Work."4. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the Management Reserve Fund. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIV, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
5. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "E" 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 PROJECT at the time of the interview.
6. 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 work 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) 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. The CONSULTANT has twenty (20) days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

Exhibit E-1

**Consultant Fee Determination
Summary Sheet**

**Exhibit E-1
Consultant Fee Determination - Summary Sheet
(Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work)**

Project: _____

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	=	<u>Cost</u>
_____	_____	X	_____		\$	_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____
_____	_____	X	_____			_____

Total DSC = \$ _____

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of _____ % x \$ _____

Fixed Fee (FF):

FF Rate x DSC of _____ % x \$ _____

Reimbursables:

Itemized _____

Subconsultant Costs (See Exhibit G):

Grand Total

Prepared By: _____ Date: _____

DOT Form 140-089 EF Exhibit E-1
Revised 6/05

Exhibit E-2

**Consultant Fee Determination
Summary Sheet (Specific Rates of Pay)**

**Exhibit E-2
Consultant Fee Determination - Summary Sheet
(Specific Rates of Pay)
Fee Schedule**

Discipline or Job Title	Hourly Rate	Overhead @ _____ %	Profit @ _____ %	Rate Per Hour
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

DOT Form 140-089 EF Exhibit E-2
Revised 6/05

Exhibit F

Breakdown of Overhead Cost

**Exhibit F
Breakdown of Overhead Cost**

Account Title	\$ Beginning Total	% of Direct Labor
Direct Labor		
Overhead Expenses:		
FICA		
Unemployment		
Health/Accident Insurance		
Medical Aid & Industrial Insurance		
Holiday/Vacation/Sick Leave		
Commission/Bonus/Pension		
Total Fringe Benefits		
General Overhead:		
State B&O Taxes		
Insurance		
Administration & Time Not Assignable		
Printing, Stationery & Supplies		
Professional Services		
Travel Not Assignable		
Telephone & Telegraph Not Assignable		
Fees, Dues & Professional Meetings		
Utilities & Maintenance		
Professional Development		
Rent		
Equipment Support		
Office, Miscellaneous & Postage		
Total General Overhead		
Total Overhead (General + Fringe)		
Overhead Rate (Total Overhead / Direct Labor)		

DOT Form 140-089 EF Exhibit F
Revised 6/05

Exhibit G-1

**Subconsultant Fee Determination
Summary Sheet**

**Exhibit G-1
Subconsultant Fee Determination - Summary Sheet
(Mandatory when Subconsultants are utilized)**

Project: _____

Sub Consultant: _____

Direct Salary Cost (DSC):

<u>Classification</u>	<u>Man Hours</u>	X	<u>Rate</u>	=	<u>Cost</u>
_____	_____	X	_____		\$ _____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
_____	_____	X	_____		_____
Total DSC				=	\$ _____

Overhead (OH Cost -- including Salary Additives):

OH Rate x DSC of _____ % x \$ _____ = _____

Fixed Fee (FF):

FF Rate x DSC of _____ % x \$ _____ = _____

Reimbursables:

Itemized _____ = _____

SubConsultant Total

= _____

Prime Mark-Up

_____ % X _____ = _____

Grand Total

= _____

Prepared By: _____ Date: _____

DOT Form 140-089 EF Exhibit G-1
Revised 8/07

Exhibit G-3 Breakdown of Subconsultants Overhead Cost

**Exhibit G-3
Breakdown of Subconsultants Overhead Cost**

Account Title	\$ Beginning Total	% of Direct Labor
Direct Labor		
Overhead Expenses:		
FICA		
Unemployment		
Health/Accident Insurance		
Medical Aid & Industrial Insurance		
Holiday/Vacation/Sick Leave		
Commission/Bonus/Pension		
Total Fringe Benefits		
General Overhead:		
State B&O Taxes		
Insurance		
Administration & Time Not Assignable		
Printing, Stationery & Supplies		
Professional Services		
Travel Not Assignable		
Telephone & Telegraph Not Assignable		
Fees, Dues & Professional Meetings		
Utilities & Maintenance		
Professional Development		
Rent		
Equipment Support		
Office, Miscellaneous & Postage		
Total General Overhead		
Total Overhead (General + Fringe)		
Overhead Rate (Total Overhead / Direct Labor)		

DOT Form 140-089 EF Exhibit G-2
Revised 8/07

Exhibit H

Title VI Assurances

Exhibit H Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT'S non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part

6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit I **Payment Upon Termination of Agreement by
the Agency Other Than for Fault of the Consultant**

Exhibit I
Payment Upon Termination of Agreement
By the Agency Other Than for
Fault of the Consultant

(Refer to Agreement, Section IX)

Lump Sum Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made shall total the same percentage of the Lump Sum Amount as the work completed at the time of termination is to the total work required for the PROJECT. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Cost Plus Fixed Fee Contracts

A final payment shall be made to the CONSULTANT which when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination is to the total work required for the Project. In addition, the CONSULTANT shall be paid for any authorized extra work completed.

Specific Rates of Pay Contracts

A final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT plus any direct nonsalary costs incurred at the time of termination of this AGREEMENT.

Cost Per Unit of Work Contracts

A final payment shall be made to the CONSULTANT for actual units of work completed at the time of termination of this AGREEMENT.

Exhibit J

Alleged Consultant Design Error Procedures

Exhibit J Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's 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 Highways and 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 H&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 Highways and Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Highways and Local Programs Engineer to H&LP for their review and consultation with the FHWA. H&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, H&LP will request assistance from the Attorney General's Office for legal interpretation. H&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. H&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 K

Consultant Claim Procedures

Exhibit K 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) are a total of \$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 Highways and 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 Highways and 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 associated 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 Highways and 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.

Exhibit L

**(To Be Used Only If Insurance
Requirements Are Increased)**

**Exhibit L
(To Be Used Only If Insurance Requirements Are Increased)**

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

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

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

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

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

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

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

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

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

Exhibit M-1(a)

Certification of Consultant

**Exhibit M-1(a)
Certification Of Consultant**

Project No. _____

Local Agency _____

I hereby certify that I am _____ and duly authorized representative of the firm of _____ whose address is _____ and that neither I nor the above firm I here represent has:

- (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 the 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 available 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.

Date

Signature

Exhibit M-1(b)

Certification of Agency Official

**Exhibit M-1(b)
Certification Of Agency Official**

I hereby certify that I am the AGENCY Official of the Local Agency of _____,
Washington, and that the consulting firm 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; or
- (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 available 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.

_____ Date

_____ Signature

DOT Form 140-089 EF Exhibit M-1 (b)
Revised 6/05

Exhibit M-2

**Certification Regarding Debarment,
Suspension, and Other Responsibility Matters**

**Exhibit M-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-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission or 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 antitrust 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; and
 - D. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant (Firm): _____

(Date)

(Signature) President or Authorized Official of Consultant

Exhibit M-3

**Certification Regarding the Restrictions
of the Use of Federal Funds for Lobbying**

**Exhibit M-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 an 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 any 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 required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 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 subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Consultant (Firm): _____

(Date)

(Signature) President or Authorized Official of Consultant

Exhibit M-4

Certificate of Current Cost or Pricing Data

**Exhibit M-4
Certificate of Current Cost or Pricing Data**

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 15.401 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of _____* are accurate, complete, and current as of _____**. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm _____

Name _____

Title _____

Date of Execution*** _____

- * Identify the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).
- ** Insert the day, month, and year when price negotiations were concluded and price agreement was reached.
- *** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Supplemental Signature Page for Standard Consultant Agreement	Consultant/Address/Telephone
Agreement Number	Project Title And Work Description
Federal Aid Number	
Local Agency	

THIS AGREEMENT, made and entered into this _____ day of _____, _____, between the Local Agency of _____, Washington, hereinafter called the "AGENCY", and the above organization hereinafter called the "CONSULTANT".

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year first above written.

CONSULTANT

LOCAL AGENCY

By _____

By _____

Consultant _____

Agency _____

By _____

By _____

Consultant _____

Agency _____

By _____

Agency _____

By _____

Agency _____



Supplemental Agreement Number _____	Organization and Address
Agreement Number	
Project Number	Phone
Project Title	New Maximum Amount Payable \$
Description of Work	

The Local Agency of _____ desires to supplement the agreement entered into with _____ and executed on _____ and identified as Agreement No. _____ All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: _____

III

Section V, PAYMENT, shall be amended as follows:

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: _____

By: _____

 Consultant Signature

 Approving Authority Signature

 Date

DOT Form 140-063 EF
 Revised 8/2005

ACME BILLING - DESIGN CONTRACT		ACME DESIGN		ACME REIMBURSABLE		ACME FEE		ACME MGT. RESERVE	
COMMENCING APRIL 1998		(labor + overhead)		(supplies, equip.)		(fixed or percentage)		(10% or \$50,000 max.)	
	EFFECTIVE DATE	END DATE	TOTAL (A+B+C+D)	A	B	C	D		
ORIGINAL CONTRACT	3/5/98	4/30/99	1,000,000.00	758,207.55	95,000.00	96,792.45	50,000.00		
SUPPL 1	4/15/99	10/31/99	250,000.00	218,288.15	7,000.00	24,711.85	0.00		
SUPPL 2	10/25/99	4/30/00	0.00	0.00	0.00	0.00	0.00		
ADDL WORK AUTH 11/13/98 BY LTR.				18,235.55	4,700.00	2,064.45	(25,000.00)		
TOTAL TO DATE			1,250,000.00	994,731.25	106,700.00	123,568.75	25,000.00		
INVOICE #	SERVICES THROUGH								
10720	4/98		9,453.86	6,740.97	1,949.76	763.13			
10753	5/98		57,702.32	49,469.30	2,632.72	5,600.30			
10770	6/98		108,129.84	92,114.98	5,586.75	10,428.11			
10998	7/98		74,985.70	65,268.39	2,328.44	7,388.87			
11205	8/98		79,551.08	67,953.63	3,904.59	7,692.86			
11336	9/98		176,664.30	137,858.93	23,198.70	15,606.67			
11530	10/98		109,515.38	93,527.78	5,399.55	10,588.05			
11782	11/98		74,011.67	52,404.73	15,674.33	5,932.61			
11937	12/98		93,734.33	74,410.44	10,900.07	8,423.82			
12146	1/99		95,229.08	82,491.66	3,398.74	9,338.68			
12319	2/99		130,894.03	116,030.99	1,727.46	13,135.58			
12563	3/99		46,706.63	37,259.95	5,228.57	4,218.11			
12695	4/99		25,879.55	21,757.14	1,659.34	2,463.07			
12833	5/99		55,842.88	43,488.74	7,430.89	4,923.25			
13037	6/99		20,954.66	17,418.99	1,311.97	2,223.70			
13220	7/99		8,115.18	5,855.60	1,512.05	747.53			
13451	8/99		3,748.06	2,646.24	764.00	337.82			
14053	9/99		5,563.92	3,870.34	1,199.54	494.04			
14313	10/99		17,509.21	9,952.37	6,286.32	1,270.52			
BILLED TO DATE			1,194,191.68	980,521.17	102,093.79	111,576.72			
REMAINING TO BE BILLED			55,808.32	14,210.08	4,606.21	11,992.03			25,000.00

*may also use to track subconsultant expenditures



Performance Evaluation Consultant Services

Consultant Name		Evaluation Type <input type="checkbox"/> Interim <input type="checkbox"/> Subconsultant <input type="checkbox"/> Final	
Consultant Address		Project Title	
		Agreement Number	
Type of Work <input type="checkbox"/> Study <input type="checkbox"/> Design <input type="checkbox"/> R/W <input type="checkbox"/> PS&E <input type="checkbox"/> Other (Specify Below):		Type of Agreement <input type="checkbox"/> Lump Sum <input type="checkbox"/> Hourly Rate <input type="checkbox"/> Cost Plus Fixed Fee <input type="checkbox"/> Other	
Complexity of Work <input type="checkbox"/> Difficult <input type="checkbox"/> Routine	Date Agreement Approved		
Amount of Original Agreement \$	Total Amount Modifications \$	Total Amount Agreement \$	
Completion Date Including Extensions	Actual Completion Date	Actual Total Paid \$	
Type and Extent of Subcontracting			

Performance Rating Scale (From Average Score Below)			
10	9	8	7
Superior	Above Reqmnts	Meets Reqmnts	Below Reqmnts
4	3	2	1
Below Reqmnts			Poor
Criteria	Comment	Score	
1. Negotiations Cooperative and responsive.			
2. Cost / Budget Complete within agreement budget including supplements.			
3. Schedule Complete within agreement schedule including supplements.			
4. Technical Quality Met Standards.			
5. Communications Clear, Concise Communication (Oral, written, drawings).			
6. Management Team player. Managed subs. Accurate, timely invoices. Appropriate, periodic, accurate progress reports.			
Total Score			
Average Score (Total Score / Number of criteria rated)			

Rated By (Project Manager Name and Title)	Project Manager Signature	Date
Rated By (Area Consultant Liaison Name and Title)	Area Consultant Liaison Signature	Date
Executive Review (Name and Title)	Executive Signature	Date

DOT Form 272-019 EF
Revised 3/2002

Distribution: Original: Consultant
Copies: Project Manager - Area Consultant Liaison - Consultant Services Office

Performance Evaluation Instructions

How

- Form should be reviewed and discussed with the Consultant prior to contract negotiations. Establish your expectations.
- Supplementary forms are available from the Consultant Services Office which expand the considerations for each criteria (e.g. "Schedule: A. Achieved schedule; B. Prompt response to review comments; C. Adapted to changes by WSDOT; D. Notified WSDOT early, regarding schedule impactors").
- If evaluation criterion number 7, "Other" is relevant (e.g. public involvement or volume of work) that criterion must be specified and mutually agreeable in advance.
- Score accurately. A "7" is respectable; "9" is exceptional, it should be rare.

When

Final Evaluation

- Always complete and distribute a performance evaluation at the point of termination of the agreement.
- See distribution at bottom of form.

Interim Evaluation

- Interim evaluations should be performed as follows:
 1. At phase transitions.
 2. When any project management changes occur.
 3. To alert a consultant to poor performance.
 4. Annually if none of the other conditions occur.

- Distribute as usual.

Subconsultant Evaluation

- For subconsultants with significant project participation (more than \$100,000) an evaluation is recommended. Ensure coordination and review with the prime consultant prior to distribution.
- Distribute similar to usual. Include prime consultant and subconsultant.

Why

- Scores from these evaluations factor into "Past Performance" ratings, which are used to help determine selection of future consultants. Meaningful evaluations help us hire the best.

DOT Form 272-019 EF Instructions
Revised 1/99



Consultant Services Evaluation Supplement

Consultant Name	Evaluation Type <input type="checkbox"/> Interim <input type="checkbox"/> Subconsultant <input type="checkbox"/> Final																				
Consultant Address	Project Title																				
	Agreement Number																				
Performance Rating Scale (From Average Scores)																					
<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">10</td> <td style="text-align: center;">9</td> <td style="text-align: center;">8</td> <td style="text-align: center;">7</td> <td style="text-align: center;">6</td> <td style="text-align: center;">5</td> <td style="text-align: center;">4</td> <td style="text-align: center;">3</td> <td style="text-align: center;">2</td> <td style="text-align: center;">1</td> </tr> <tr> <td style="text-align: center;">Superior</td> <td></td> <td style="text-align: center;">Above Reqmnts</td> <td></td> <td style="text-align: center;">Meets Reqmnts</td> <td></td> <td style="text-align: center;">Below Reqmnts</td> <td></td> <td style="text-align: center;">Poor</td> <td></td> </tr> </table>	10	9	8	7	6	5	4	3	2	1	Superior		Above Reqmnts		Meets Reqmnts		Below Reqmnts		Poor		
10	9	8	7	6	5	4	3	2	1												
Superior		Above Reqmnts		Meets Reqmnts		Below Reqmnts		Poor													

Negotiation and Cost / Budget Criteria

1. Negotiations	
Sub-Criteria	Score
A. Adhered to WSDOT guidelines on fee.	
B. Met negotiation schedule.	
C. Open and honest communications.	
D. Willingness to compromise.	
E.	
F.	
Total Score	
Average Score (Total Score / Number of sub-criteria rated)	
Comments	

2. Cost / Budget	
Sub-Criteria	Score
A. Finished within budget, including all supplements.	
B. Appropriate level of effort.	
C. Reasonable direct, non-salary expenses.	
D.	
E.	
F.	
Total Score	
Average Score (Total Score / Number of sub-criteria rated)	
Comments	

Schedule and Technical Quality Criteria

Consultant Name	Agreement Number
-----------------	------------------

3. Schedule	
Sub-Criteria	Score
A. Achieved schedule (Including all supplements).	
B. Prompt response to review comments.	
C. Adapted to changes by WSDOT.	
D. Notified WSDOT early regarding schedule "impactors."	
E.	
F.	
Total Score	
Average Score (Total Score / Number of sub-criteria rated)	
Comments:	

4. Technical Quality	
Sub-Criteria	Score
A. Work products meet standards; where "practical."	
B. Performed appropriate quality control.	
C. Responds to review comments in subsequent submission.	
D. Sought opportunities to incorporate innovative designs.	
E. Delivered "compatible" electronic files.	
F. Implemented procedures to control construction costs.	
G.	
H.	
Total Score	
Average Score (Total Score / Number of sub-criteria rated)	
Comments:	

Communication and Management Criteria

Consultant Name	Agreement Number
-----------------	------------------

5. Communications	
Sub-Criteria	Score
A. Produced clear, concise oral and written communication.	
B. Demonstrates an understanding of oral and written instructions.	
C. Communicated at intervals appropriate for the work.	
D. Respects and uses lines of communications.	
E.	
F.	
G.	
Total Score	
Average Score (Total Score / Number of sub-criteria rated)	
Comments:	

6. Management	
Sub-Criteria	Score
A. Provided creative cost control measures / ideas.	
B. Submitted appropriate, periodic, accurate progress reports.	
C. Accurate and timely invoicing.	
D. Conducted meetings efficiently.	
E. Limited the number of consultant-initiated contract modifications / supplements.	
F. Coordinated with WSDOT effectively; was a "team player."	
G. Responsive	
H. Managed subconsultants effectively.	
I.	
J.	
Total Score	
Average Score (Total Score / Number of sub-criteria rated)	
Comments:	