

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number: 16168

Does this Require DES filing? ☐ Yes ☒ No

Firm/Organization Legal Name (do not use dba's): Skillings Connolly, Inc.			
Address 5016 Lacey Blvd. SE, Lacey, WA 98503		Federal Aid Number STPUS-6705(001)	
UBI Number 600-491-794		Federal TIN or SSN Number 91-1212924	
Execution Date		Completion Date April 30, 2017	
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title Core 40 - Miller Road Shoulder Improvements			
Description of Work The City of Bainbridge Island is requesting Skillings Connolly, (Consultant) to provide engineering services for planning, permitting, and design (PS&E) services and construction support for a project on Miller Road from Tolo Road to Peterson Hill Road. The goal of this project is to provide 6-foot wide (5-foot paved) shoulders on Miller Road with associated drainage/water quality improvements. This project is part of the City's Core 40 Program adopted in 2007 to develop a 40-mile integrated shoulder network for bicycles island wide. The City has available funds from a combination of Regional Surface Transportation Program (Urban Small) funds and City funds for the project. PS&E and permitting are to be completed in 21 weeks. All work must conform to appropriate federal and state standards and requirements. Design engineering leading to bid ready documents is required for the following improvements: Shoulder widening of Miller Road; Drainage and water quality improvements; Environmental documentation/permitting including NEPA 4(f) de minimis impact review for the Grand Forest.			
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No DBE Participation	Maximum Amount Payable: \$178,930.36
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No MBE Participation	
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No WBE Participation	
<input type="checkbox"/> Yes	%	<input checked="" type="checkbox"/> No SBE Participation	

Index of Exhibits

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

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

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

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

I. General Description of Work

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

II. Scope of Work

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

III. General Requirements

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

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

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

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

The CONSULTANT, on a monthly basis, is required to submit DBE Participation of the amounts paid to all DBE firms invoiced for this AGREEMENT.

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

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

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

If to AGENCY:

Name: Mr. Christian D. Munter, PE, PMP, Env SP
Agency: City of Bainbridge Island
Address: 280 Madison Avenue N
City: Bainbridge Island State: WA Zip: 98110
Email: cmunter@bainbridgewa.gov
Phone: 206.780.3720
Facsimile:

If to CONSULTANT:

Name: Gerald E. Smith, PE
Agency: Skillings Connolly, Inc.
Address: PO Box 5080
City: Lacey State: WA Zip: 98509
Email: gsmith@skillings.com
Phone: 360.491.3399
Facsimile: 360.491.3857

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. This AGREEMENT may require filing with the Department of Enterprise Services (DES) pursuant to RCW 39.26.140. If such approval is required by DES, this AGREEMENT shall not bind the AGENCY until approved by DES. If the AGREEMENT must be approved by DES, work cannot begin, nor payment made until ten (10) or more working days following the date of filing, and until approved by DES. Any subsequent SUPPLEMENTAL AGREEMENT may also be subject to filing and/or approval from DES. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

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

V. Payment Provisions

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

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

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

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

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

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

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

- B. **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. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT'S Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for direct non-salary costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.
- The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per the WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.
- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

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

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

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

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

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

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

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

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this 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 this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

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

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

VIII. Nondiscrimination

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

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

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

IX. Termination of Agreement

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

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

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

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

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

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

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

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

XI. Disputes

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

XII. Legal Relations

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

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

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

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

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

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

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

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

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

Agreement Number: 16168

Insurance Coverage

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

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

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

Name: Mr. Christian D. Munter, PE, PMP, Env SP
Agency: City of Bainbridge Island
Address: 280 Madison Avenue N
City: Bainbridge Island State: WA Zip: 98110
Email: cmunter@bainbridgewa.gov
Phone: 206.780.3720
Facsimile:

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

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

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

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

XIII. Extra Work

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

XIV. Endorsement of Plans

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

XV. Federal Review

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

XVI. Certification of the Consultant and the AGENCY

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

XVII. Complete Agreement

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

XVIII. Execution and Acceptance

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

XIX. Protection of Confidential Information

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

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

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

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

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

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

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

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

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

XIX. Records Maintenance

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

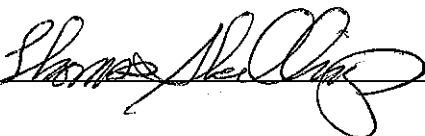
For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT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

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

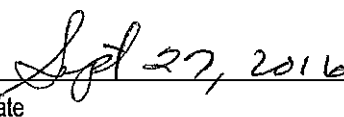
"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

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

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



Signature



Date

Signature

Date

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

Exhibit A

Scope of Work

Project No. 16168

Agreement Number: 16168

EXHIBIT A SCOPE OF WORK

Prepared for:

CITY OF BAINBRIDGE ISLAND CORE 40 – MILLER ROAD SHOULDER IMPROVEMENTS TOLO ROAD TO PETERSON HILL ROAD

INTRODUCTION

The City of Bainbridge Island is requesting Skillings Connolly, (Consultant) to provide engineering services for planning, permitting, and design (PS&E) services and construction support for a project on Miller Road from Tolo Road to Peterson Hill Road. The goal of this project is to provide 6-foot wide (5-foot paved) shoulders on Miller Road with associated drainage/water quality improvements. This project is part of the City's Core 40 Program adopted in 2007 to develop a 40-mile integrated shoulder network for bicycles island-wide. The City has available funds from a combination of Regional Surface Transportation Program (Urban Small) funds and City funds for the project. PS&E and permitting are to be completed in 21 weeks. All work must conform to appropriate federal and state standards and requirements. Design engineering leading to bid ready documents is required for the following improvements:

- Shoulder widening of Miller Road
- Drainage and water quality improvements
- Environmental documentation/permitting including NEPA 4(f) de minimis impact review for the Grand Forest
- Construction assistance

The following scope of work identifies project assumptions, delineates tasks to be performed, and specifies deliverables to be provided as part of the agreement between the Consultant and the City of Bainbridge Island.

Project Assumptions:

- All plan sheets will be prepared in AutoCAD v.2017 format.
- All roadway design will be done using Civil3D v.2017 software.
- No right-of-way acquisition will be required.
- Posted speed limit 35 mph; design clear zone 10 feet.
- Notice to proceed is expected on or before November 1, 2016
- City of Bainbridge Island will furnish right of way title reports from Title Company.

Project Limits:

- Miller Road from Tolo Road to Peterson Hill Road, within the existing rights of way. Include a 20:1 taper (100') at the south side of the Tolo Road intersection and the north side of the Peterson Hill Road intersection.

REFERENCES

The Consultant will perform services set forth in this SCOPE OF WORK on behalf of the City of Bainbridge Island using procedures specified by the City of Bainbridge Island and in compliance with the standards and requirements set forth in the following procedures, regulations and most current (at the time of execution of this agreement) adopted manuals which by reference, are made a part of this Agreement.

- Current (as of the date of execution of the agreement) applicable City of Bainbridge Island standards and ordinances:
 - City of Bainbridge Island Design and Construction Standards
 - City of Bainbridge Island Municipal Code
 - City of Bainbridge Island Comprehensive Plan, Transportation Element
 - City of Bainbridge Island Land Use and Development Procedures
 - City of Bainbridge Island Critical Areas Ordinance
- Current (as of the date of execution of the agreement) versions of the following publications and manuals will be applicable when specifically cited in the City of Bainbridge Island Road Standards or when required by state or federal funding authorities:
 - *Standard Specifications for Road, Bridge, and Municipal Construction - 2016*, published by the Washington State Department of Transportation (WSDOT).
 - *Standard Plans for Road, Bridge, and Municipal Construction*, published by WSDOT.
 - *Highway Design Manual*, published by WSDOT.
 - *Local Agency Guidelines*, published by WSDOT.
 - *A Policy on Geometric Design of Highways and Streets*, published by AASHTO.
 - *Roadside Design Guide*, published by AASHTO.
 - *Manual on Uniform Traffic Control Devices*, published by the U.S. Department of Transportation, Federal Highway Administration, as amended and approved by WSDOT.
 - *Construction Manual*, published by WSDOT.
 - Department of Ecology's *Stormwater Manual for Western Washington*

DOCUMENTS TO BE PROVIDED BY CITY OF BAINBRIDGE ISLAND

It is agreed that the City of Bainbridge Island will provide the following documents and/or data to Consultant for use in development of the project:

- All as-constructed information available for utility and roadway facilities.
- Title documents for right of way on each individual property.
- Miller Road TIN (in-hand)

Task 010 – Project Management

This task includes Consultant management of staff and Subconsultants, invoices and progress reporting, progress meetings, some QA/QC, and internal staff team progress meetings.

Assumptions:

- Notice to Proceed is expected to be received before November 1, 2016.
- PS&E will be completed by 21 weeks after Notice to Proceed.

Tasks:

1. The Consultant will prepare a Project Management Plan to include a detailed Scope of Work, budget, and a comprehensive schedule that identifies the anticipated resources necessary to complete the work.
2. The Consultant will schedule, prepare for, and take part in weekly communications with the City of Bainbridge Island. Meetings will be by telephone conference to save travel time, unless specifically identified in this scope of work.

3. The Consultant will prepare and periodically update a staffing Work Plan that specifies, on a contemporary basis, the staffing assigned to the project and work tasks that are to be completed within the work planning period.
4. Consultant will provide quality control in-house through peer review and principal quality checks.
5. Consultant will manage Subconsultants, if any.
6. Consultant will provide monthly Earned Value reports for City of Bainbridge Island review.
7. Consultant will prepare monthly billings with progress reports.

Deliverables:

- Project Management Plan with Scope of Work, budget, and schedule.
- Monthly invoices, with status reports and earned value reports.

Task 020 – Kick-off Meeting/Site Visit

The combined kick-off meeting, site visit, and general project discussion will allow team members from City of Bainbridge Island and Consultant to meet each other, discuss the Consultant's Project Management Plan, and perform a site visit/walk through to discuss design ideas in the field.

Assumptions:

- Kick-off meeting/site visit with City of Bainbridge Island will be held after Notice to Proceed
- Attendees:
 - City of Bainbridge Island staff
 - Consultant PM
 - Consultant design engineer
 - Consultant environmental manager

Tasks:

1. Project kick-off meeting – agenda will be prepared by Consultant based on the Project Management Plan
2. Develop basic plan sheet for site walk through based on City provided survey
3. Site visit to identify:
 - Road design concerns
 - Road alignment
 - Intersection and driveway conflicts
 - Utility issues
 - Geotechnical issues:
 - Unsuitable soils
 - Identify need for and preliminary ideas for location of the Geotech borings, if required
 - Environmental challenges
 - Wetlands
 - Critical areas
 - Cultural resources review
 - Photo documentation
4. Project discussion to solidify Ideas
 - Widening Issues, i.e. steep slopes could require widening to upslope side and putting a curve in road alignment
 - Drainage and water quality issues, runoff paths
 - Utility issues

- City of Bainbridge Island will furnish right of way title reports from Title Company.
 - Property owner concerns
 - Other issues to be addressed

Deliverables:

- Project kick-off meeting agenda
- Site review and project discussion notes, will include:
 - Road widening design ideas
 - Drainage and water quality ideas
 - Right-of-way needs
 - Utility impacts
 - Identified geotechnical issues
 - Environmental issues
 - Cultural resources notes
 - Critical area notes
- Photo documentation of site review
- Meeting minutes

Task 030 – Site Survey, Base Map, and Right-of-Way Plans

Consultant crews will survey the project site, establish survey control, and develop base map.

Assumptions:

- Survey limits:
 - Minimum - right-of-way to right-of-way within the project limits
 - All street profiles will extend 100' or more past the project limits (defined above) to assure tie-ins will be smooth
 - Topography will extend 10' outside right of way if rights of entry are obtained
 - Driveway profiles far enough for revised connections
- City will obtain right of entry where improvements will require temporary construction easements (off right-of-way driveway connections, retaining wall work)
- The Consultant shall perform a field survey that will pick up the ground information to complete the base map for the project site.
- Right-of-way plans will be tied to topographic surveys; Consultant will review and calculate rights of way based on right of way documents provided by the City of Bainbridge Island through the title company and include in base map.

Tasks:

1. Call one-call for utility locates
2. Consultant will complete topographic survey of the site.
3. Consultant will review rights of way based on right of way documents provided by the City of Bainbridge Island through the title company and include in base map.
4. Consultant will prepare right-of-way plans for submittal to WSDOT.
5. Consultant will develop the survey base map.
6. Prepare a DNR Monument removal Permit Application, if required.

Deliverables:

- Design base map suitable for design of roadway widening and drainage improvements.
- Base map with all utilities located.
- Right-of-way plans to include temporary construction easements for submittal to WSDOT

Task 040 – Utility and Kitsap Transit Coordination

The City of Bainbridge Island manages stormwater utilities in the project area. Water services are underground in the project area and provided by North Bainbridge Water (KPUD 1) and Meadowmeer Water. Electricity is provided by Puget Sound Energy (PSE). Communications service is provided by CenturyLink and Comcast. Kitsap Transit has stops and shelters along the corridor that may need relocation and/or reconfiguring.

Contacts:

PSE – Brian McConaughy – 253-476-6334
Comcast – 253-343-7977
CenturyLink – 800-244-1111
North Bainbridge Water – KPUD 1 – 800-739-6766
Meadowmeer Water – 206-780-2958
Kitsap Transit – 800-501-RIDE

Assumptions:

- Coordination with all utilities and Kitsap Transit will be through City staff, including any relocation coordination required.
- City staff will provide as-built utility plans, if available, to Skillings Connolly for placement on the base map.
- Skillings Connolly will use the one-call locate service and plot located utilities in Task 030

Task 050 – Design Report (30% Plans)

The Design Report will include design criteria, plans and profiles, roadway sections, and a preliminary cost estimate. This document will be the basis for completion of project design. The quantity calculations notebook will be preliminary and will not be sufficient for the final construction cost estimate; construction details will not have been completely determined.

Assumptions:

- Consultant will maintain a design diary documenting approaches, problems, decisions, and actions. Diary will be maintained continuously throughout the project.
- Design will be updated from walkthrough sheets with new topography from Task 030 and issues discussed in walkthrough, Task 020.

Tasks:

1. Design diary including basis of design criteria.
2. Preliminary plan, profile and roadway section details.
3. Preliminary drainage report.
4. Identify potential location for walls, wall type alternatives.
5. Preliminary engineer's estimate of probable cost to construct.

6. List of permits required.

Deliverables:

- Design report that includes:
 - Basis of design criteria
 - 30% level
 - Roadway and shoulder design
 - Intersection and driveway tie-in basics
 - Retaining wall layouts, if needed
 - Preliminary drainage report
 - Preliminary engineer's estimate of probable cost to construct
 - List, process and timing for permits
- One (1) copy of Design Report; hard copy and electronically.
- Letter form Design Report that lists design criteria and all critical design issues.

Task 060 – Shoulder Widening Design (60% PS&E)

Should retaining walls be identified as required in Task 050 the design and plans preparation effort required will be a supplement to the agreement. Alternatively, the City may opt to purchase additional right of way in lieu of retaining walls.

Assumptions:

- Skillings Connolly will do structural design and detailing of retaining walls, if needed.
- Stormwater design will be per the Department of Ecology's *Stormwater Manual for Western Washington 2012* and *BIMC*.

Tasks:

1. Plans:
 - Complete roadway sections
 - Pavement widths, lane configuration
 - Surfacing and paving depths
 - Roadway widening plans and profiles
 - Alignment and grading plans
 - Demolition and TESC plans
 - Signing and striping plans
 - Traffic control plans, including vehicle and pedestrian detours
 - Property restoration plans
2. Stormwater/water quality design
 - Site visit to review existing stormwater/water quality process.
 - Determine threshold discharge areas (TDA) and prepare maps of TDA.
 - Determine the design storm and runoff volume.
 - Calculate area of new impervious and replaced hard surfaces.
 - Determine if detention/retention or treatment is required.
 - Design detention/retention and/or treatment system(s) as required.
 - Prepare stormwater site plan

- Prepare SWPPP
 - Prepare stormwater conveyance calculations and sizing
 - Prepare stormwater report
3. Review PS&E with City via face-to-face meeting or electronic plans submittal.
 4. Constructability review by our experienced construction inspectors.

Deliverables:

- 50% PS&E to City for review and plan-in-hand site review
- Complete retaining wall design(s) and details for PS&E
- SWPPP
- Final drainage report

Task 070 – Environmental – Area of Potential Effects (APE)

The area of potential effects (APE) will be determined from the shoulder widening design. It defines the area where ground may be disturbed during construction; in this case right-of-way line to right-of-way line plus any needed temporary construction easements for intersection and driveway connections and retaining wall construction.

The APE and a Work Plan will be submitted to WSDOT Local Programs for their review and consultation with the Washington State Department of Archeological and Historic Preservation (DAHP). Approval of the APE and Work Plan will determine the area to be investigated under Section 106 of the National Historic Preservation Act for cultural resources.

No ground penetrating efforts may be completed until the APE is approved, including Section 106 shovel probes or geotechnical borings.

Assumptions:

- The initial widening layout will be sufficient to define the APE

Tasks:

1. Submit the APE to WSDOT Local Programs for consultation with DAHP
2. Provide sufficient documentation of how the APE was defined
3. Respond to WSDOT/DAHP questions

Deliverables:

- APE Review Memorandum

Task 080 – Environmental – Grand Forest Section 4(f) Evaluation
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Miller Road in the project area passes through the Grand Forest, a City of Bainbridge Island park. Section 4(f) of the Department of Transportation Act of 1966 declares a national policy to “preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic

sites.” It is not anticipated that property will be required from the Grand Forest, but there may be impacts to driveway and trail entrances required by widening the shoulders of Miller Road.

Assumptions:

- Grand Forest is a Section 4(f) property
- Miller Road shoulder widening may impact the property at driveway and trail entrances
- Impacts will be de minimis and/or improve access
- The park board will concur in de minimis impacts in writing
- The City will complete all coordination with WSDOT to obtain WSDOT/FHWA approval of the de minimis determination.

Tasks:

- Complete the WSDOT Section 4(f) *De Minimis* Impact Determination form.

Deliverables:

- Section 4(f) *De Minimis* Impact Determination form

Task 090 – Environmental – NHPA Section 106 Evaluation

This task may not be required if the APE can be shown to effect only previously disturbed ground. This project is planned to be within the existing right-of-way with the exception of possible temporary construction easements. Because the project will be outside the right-of-way in limited locations we cannot assume an exemption from Section 106 will be granted.

Skilling Connolly and subconsultant costs for this task are not included at this time and will be a supplement to this agreement if and when needed.

Assumptions:

- A Section 106 survey will not be required.
- Work will be conducted by Cultural Resource Consultants as a sub consultant to Consultant, if required.
- This analysis will be included in the NEPA Categorical Exclusion Document to partially satisfy Section 106 requirements.
- Cultural Resource Consultants will not be responsible for obtaining right-of-entry to off right-of-way properties. City will obtain any required right-of-entry permits.

Tasks (if required):

1. Conduct background research using the Washington State Department of Archaeology and Historic Preservation (DAHP) online database, WISAARD.
 - o To determine what previous studies have been conducted within and in the vicinity of the project area.
 - o Identify previously recorded cultural resources in the project vicinity.
2. Conduct background research using historic maps to gather historic land use data.
3. Conduct background research to gather ethnographic period and historic period land use data.
4. Conduct background research using Bainbridge Island data to identify buildings 50 years old or older.

5. Upon approval of the Work Plan, Cultural Resource Consultants will arrange for utility locates to be marked out prior to conducting field work.
6. Upon completion of utility locates, Cultural Resource Consultants will conduct an archaeological pedestrian survey and shovel probing within the APE.
 - o Conduct pedestrian survey at 20 meter intervals within the APE
 - o Seek out and examine ground exposures.
 - o Excavate up to _____ archaeological shovel probes.
 - o Document areas of pedestrian survey and shovel probe locations using GPS device.
7. If archaeological materials are found:
 - o Document the location and materials found on a Washington Archaeological Site Inventory form.
 - o Photograph site and provide sketch map.
 - o Document location via GPS.
8. Since the project is within an existing ROW, no historic buildings, structures, or objects will be impacted. No architectural survey is recommended.
9. Prepare a Final Cultural Resources Technical Report.
 - o One draft report will be submitted to the Consultant and the City for comment.
 - o Upon receipt of comments a draft report will be prepared for submittal to WSDOT for review.
 - o Upon receipt of comments an electronic final report will be prepared for submittal to the City, WSDOT and DAHP.
10. Consultant will review the report for completeness and suitability.

Deliverable:

- Two drafts and one final Cultural Resources Inventory Report summarizing the results of the research and fieldwork.
 - o Report will reflect professional standards for format and content as expressed in the guidelines prepared by DAHP.
 - o Report will include archaeological site records and historic property inventory forms if necessary
- The report will include such tables, maps, photographs, and other graphics as are needed to depict the full scope of the study and results.

Task 100 – Geotechnical Investigation (if required)
--

Assumptions:

- Geotechnical evaluation includes physical soil properties only.
- Potentially contaminated soils are not included; if contaminated soils are encountered, Aspect Consulting will collect samples and contact Consultant for direction.
- Geotechnical services will be provided by Aspect Consulting as a Subconsultant to Skillings Connolly.

Skillings Connolly and subconsultant costs for this task are not included at this time and will be a supplement to this agreement if and when needed.

Tasks:

1. Provide Subconsultant coordination for geotechnical investigations.

2. Call for utility locates prior to field work.
3. Prepare traffic control plan.
4. Perform shallow subsurface explorations.
5. Prepare geotechnical engineering report documenting:
 - o Shoulder widening construction recommendation.
 - o Retaining wall design.
 - o General earthwork requirements
 - o Applicable geotechnical considerations
6. Consultant review of geotechnical report before submittal to City

Deliverables:

- Geotechnical engineering report.

Task 110 – Environmental Documentation and Permitting
--

Environmental documentation via a draft NEPA Categorical Exclusion Document will be developed for City review. This document will include all environmental data developed specific to the roadway widening. If there are wetland impacts from the roadway widening design they will be delineated and a mitigation plan suggested.

The City may use the DRAFT NEPA Categorical Exclusion Document for submittal to WSDOT at about the 60% design stage or when comfortable there will no longer be any design revisions that change environmental impacts.

Assumptions:

- This Task provides environmental documentation for the roadway widening. Documents may need to be revised at a later stage in the design to reflect final design conditions. These DRAFT documents will be prepared:
 - o NEPA Checklist (NEPA Categorical Exclusion Document)
 - o SEPA Checklist will be required; City will be SEPA Lead Agency
 - o Appropriate discipline reports for the NEPA Categorical Exclusion Document
 - o Wetland reconnaissance, stream and jurisdictional ditch delineation and mitigation plan if needed
- No wetland impacts assumed, therefore JARPA not required
- NEPA documentation is expected to be a Documented Categorical Exclusion (DCE).
- NEPA documentation will satisfy City of Bainbridge Island SEPA requirements.
- Cultural resources investigation will be provided by subconsultant, Cultural Resource Consultants, if required.
- City will perform all effort required to comply with the City's Critical Area Ordinance.

Tasks:

1. Provide coordination with Cultural Resource Consultants for cultural resources study, if required.
2. The Consultant will prepare a DRAFT NEPA Categorical Exclusion Document outlining potential effects to the natural and built environment that will result in a Documented Categorical Exclusion (DCE). Required documents:
 - a. Section 106 Cultural Survey, unless exempt via APE review
 - b. Endangered Species Act No Effect Letter

3. Consultant will submit a draft for City review and comment.
4. Consultant will complete the final DRAFT NEPA Categorical Exclusion Document and provide to City for submittal to WSDOT to obtain the DCE.

Deliverables:

- Section 106 Cultural Resources Report, unless exempt via APE review
- No Effect Letter
- Wetland Reconnaissance Report
- NEPA Categorical Exclusion Document

Task 120 – Final Plans, Specifications, and Estimate (100% PS&E)

Assumptions:

- ROW lines will be delineated on the construction drawings.
- The following plan sheets are anticipated:
 - Cover sheet
 - General note sheet
 - Summary of quantities
 - Alignment and survey control plan
 - Demolition and TESC plans
 - Typical roadway widening section
 - Roadway plan and profile sheets
 - Retaining wall plans and details, if needed
 - Driveway details
 - Stormwater plans, profiles, and details/notes
 - Signing and striping plan and detail sheet s
 - Traffic control plans
- Special provisions will be prepared utilizing WSDOT specification format.
- City will provide their “boiler plate” format for bid package
- Consultant will supply the bid proposal form for the bid package.
- An engineer’s estimate for the probable construction costs will be prepared that lists all of the project bid items in correct order, showing contract item number, unit of measurement, estimated unit price, estimated quantity, and total estimated cost for each.
 - The total project cost will be shown on this estimate.
 - This estimate will be used as the basis of review for the lowest responsive responsible bidder.

Tasks:

1. Plan sheets listed in assumptions
2. Complete specifications package
 - WSDOT Amendments and GSP “run list” and fill-ins.
 - Special Provisions.
 - Required Federal-aid documents
 - State and Federal prevailing wage documents
3. Constructability review by our experienced construction inspectors.
4. Review PS&E with City via face-to-face meeting or electronic plans submittal.
5. Based on City’s review comments, complete the 100% plans.
6. Calculate final quantities and develop a quantity calculations notebook.

7. Submit PS&E package to WSDOT Local Programs for:
 - o Right-of-way plan approval
 - o Environmental clearance
 - o Design approval
 - o Construction authorization (when construction funds are available)
8. Revise plans and specifications in response to WSDOT review comments.
9. Prepare Final Design Documentation files (design diary).
10. Prepare environmental commitment file.

Deliverables:

- Final design documentation
- Quantity calculation notebook
- Environmental Commitment file
- Final PS&E approved by WSDOT

Task 130 – Right-of-Way Services - Plans

No new right-of-way acquisition is expected; however, temporary construction permits may be necessary for the construction of the intersection and driveway tie-ins outside the existing right-of-way and construction that does not allow sufficient room at the right-of-way line for contractor access.

Assumptions:

- City will make a determination on acquiring temporary construction permits once a roadway widening section is established.
- Right-of-way plans and documents will be submitted to WSDOT Local Programs for approval.
- All right-of-way dealings will follow the Uniform Relocation Assistance and Real Property Acquisition Act (URA) to assure continued eligibility for federal funding grants.
- Temporary construction permits may be required.
- Legal descriptions and exhibit formats will be on 8-1/2" x 11" sheets meeting Kitsap County recording requirements.
- All right-of-way acquisition legal descriptions will be based on the original descriptions. Each legal description will bear the signature and seal of a State of Washington Registered Professional Land Surveyor.
- The Consultant will acquire and provide title reports and supporting documents, billed as expenses to the project.
- All needed right of way plan information will be found on the Kitsap County's web site.

Tasks:

1. Develop right-of-way plans and legal descriptions for temporary construction easements.
2. Prepare individual parcel sketches for right-of-way negotiations.
3. Submit right-of-way plans to WSDOT Local Programs for review.

Deliverables:

- Right-of-way plans in electronic and hard copy form (one copy each).
- Legal descriptions in digital and hard copy form.
- Revised base mapping.
- Individual parcel right-of-way sketch documentation.

Task 140 – Right-of-Way Services – Temporary Construction Permits

The work associated with this task involves the valuation and acquisition of temporary construction permits.

Subconsultant costs for this task are not included at this time and will be a supplement to this agreement if and when needed.

Assumptions:

- City will make a determination on acquiring temporary construction permits once a roadway widening section is established.
- Right-of-way plans and documents will be submitted to WSDOT Local Programs for approval.
- Temporary construction permits may be required for up to ten (10) parcels.
- Tierra Right of Way will prepare the Project Funding Estimate and associated Administrative Offer Summaries for this task.
- Tierra Right of Way will provide the negotiation services required by this task.
- If Tierra Right of Way does not reach a successful agreement with the owner(s), the documents will be referred to the City. The City will then decide on the next step with any unsuccessful negotiations.
- Direct expenses associated with limited liability guarantees, title reports, title insurance, escrow fees, other closing costs and payments to property owners will be the responsibility of the CITY.

Tasks:

1. Valuation/Negotiation Services
 - Provide TCE valuation and negotiation services using procedures in accordance with the Washington State Department of Transportation (WSDOT) *Right-of-Way Manual* and *Local Agency Guidelines* Preparation of a Project Funding Estimate.
 - Preparation of a Project Funding Estimate and Administrative Offer Summaries for up to ten (10) parcels.
 - Coordinate with the WSDOT Local Agency Coordinator to ensure the Project Funding Estimate, Administrative Offer Summaries, R/W Plans, legal descriptions, negotiation files and title reports meet WSDOT's approval prior to making the offer to purchase the temporary construction permits.
 - Address any engineering issues and offer technical support (drawings & exhibits) for the appraiser and right-of-way agent during owner meetings.
 - Coordinate with a local title/escrow company to close the necessary transactions.
 - Negotiation/acquisition of temporary construction permits.
 - Complete a file review with the WSDOT Local Agency Coordinator on each individual parcel file (or as specified by said coordinator) to ensure compliance thus allowing them to process the project for certification.
 - Prepare a commitment file documenting the work required on each parcel.

Deliverables:

- Pending landowner endorsement/closing; closed temporary construction permits files will be delivered to the City.
- Documents necessary for right-of-way certification by WSDOT.
- A right-of-way commitment file.

Task 150 – Construction Services

Comprehensive construction services are scoped here. It is anticipated that the scoped services will be reduced based on City needs. This task is not included at this time and will be a supplement to this agreement if and when needed.

Assumptions:

- Consultant will document the Contractor's compliance with the contract documents
- Consultant staff shall consist of:
 - Field Inspector
 - Office engineer in Consultant office
 - Documents will be kept electronically and in loose-leaf binders
- Materials inspection and testing will be by Kazan and Associates, Poulsbo, WA

Tasks:

- Assure compliance and with contract plans and specifications, i.e. traffic control, construction work schedule
- Maintain daily contact with City and Contractor
- Prepare Inspector's Daily Report (IDR) detailing the contractor's activities performed for each working day the Contractor is on site.
 - The report will identify quantities of materials installed, equipment and staff on site, working days assessed, etc.
 - The report will include photographs for documentation
- Review and comment on the Contractor's baseline schedule and updates.
- Provide interpretations of the contract documents in response to the Contractor's requests for information (RFI's).
- Prepare field note records documenting the work performed, quantities placed, and methods of material acceptance.
- Prepare a Construction Ledger documenting measurement and payment for each item in the contract.
- Receive, log and circulate submittals:
 - Requests for Approval of Materials Sources,
 - contractor shop drawings and catalog cuts,
 - Material certifications and other contractor submittals.
- Review substitute or "or equal" materials submitted by the Contractor and provide the City with a recommendation for approval or rejection.
- Prepare change order documentation related to design changes necessary.
- Prepare agendas; conduct weekly progress meetings with the Contractor
- Provide digital photographs during the course of construction.
- Track material quantities delivered and installed and on hand.
- Prepare monthly progress payment estimates and make recommendations to the City on payment.
- Coordinate and manage testing firm, Kazan and Associates.
- The Consultant will collect, label, and deliver material acceptance samples for surfacing aggregates to the laboratory for testing as required.
- HMA and grading compaction testing by Kazan and Associates

- Document and evaluate results of tests and identify deficiencies; notify the City and the Contractor of any deficiencies. Track remedial work to bring the project into compliance with the contract documents.
- Confirm Statements of Intent to Pay Prevailing Wages and Affidavits of Wages Paid have been filed for compliance with the contract requirements.
- Perform wage interviews and review certified payrolls in accordance with the contract requirements.
- Verify receipt and review monthly EEO Utilization Reports.
- Review "minor" claims submitted by the Contractor and provide the City with an analysis and recommendation for resolution.
- Report immediately to the City the occurrence of any accidents on the site, any hazardous environmental conditions, emergencies, or acts of God endangering the work, and property damaged by fire or other causes.
- Construction documentation will be provided in accordance with the Local Agency Guidelines. (See LAG manual Appendix S3.S1 for a complete list.)

Deliverables:

- All Construction Phase documentation shall be provided in indexed three-ring binders.
- IDR – Submitted to the City two working days or less after the day covered by the report.
- Construction photographs.
- Weekly statements of working days.
- Weekly meeting agendas and minutes.
- Field change orders with back-up.
- Construction documentation per LAG requirements.
- Requests for information (RFI's) with responses.
- Submittal responses and supporting material.
- Monthly progress payment estimate recommendations.
- Tracking of material test reports in accordance with WSDOT requirements and a report of resolution of deficient test results.
- All project-related correspondence.

Task 160 – Construction Close-out
--

Comprehensive construction close-out services are scoped here. It is anticipated that the scoped services will be reduced based on City needs. This task is not included at this time and will be a supplement to this agreement if and when needed.

Assumptions:

- Consultant will provide close-out documentation of the work completed on the project.

Tasks:

Prior to substantial completion, the Consultant will provide the Contractor:

- Punch list of items to be completed or repaired before acceptance of the project.
- Finalize all pay quantities with the Contractor and the City

- Prepare a Final Estimate for the contract and provide to the City with a recommendation to make final payment to the Contractor.
- Check L&I website for affidavit of wages paid.
- Prepare DRAFT "Notice of Completion of Public Works Contract" for City electronic submission to Washington State Departments of revenue, Labor and Industries, and Employment Security.
- DRAFT project completion and acceptance letters for City signature.
- Prepare documentation for the City in accordance with Chapter 53 of the Local Agency Guidelines. These include:
 - project completion letter,
 - materials certificates,
 - list of change orders,
 - WSDOT Final Acceptance Date.
- Assist City with WSDOT project documentation review in accordance with Chapter 53 of the LAG.
- Turn over all project documents and files to the City.

Deliverables:

- Punch list(s)
- Completion Letter
- Material Certifications
- Comparison of Quantities
- Project Documents
- Record Drawings.
- DRAFT "Notice of Completion of Public Works Contract"

END SCOPE OF WORK

Prepared by: Gerald E. Smith, PE 09/23/2016

Reviewed by: Tim Horton, PE 09/23/2016

Exhibit B
DBE Participation

Agreement Number: 16168

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

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

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

AutoCAD 2017
AutoCAD Map 2017
Civil 3D 2017

B. Roadway Design Files

AutoCAD 2017
Civil 3D 2017

C. Computer Aided Drafting Files

AutoCAD 2017
Civil 3D 2017

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

The City reserves the right to review all products with the Consultant.

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

- | | |
|---------------------------|----------------------|
| 1. Plan Sets | CAD, PDF and Print |
| 2. Specifications | Word, PDF and Print |
| 3. Estimates | Excel, PDF and Print |
| 4. Project File | MSPProject |
| 5. Communications Records | PST file |
| 6. Monthly/Weekly Report | Email or Word or PDF |

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

All as-constructed information available for utility and roadway facilities
Title documents for right of way on each individual property
Miller Road TIN (in-hand)

II. Any Other Electronic Files to Be Provided

III. Methods to Electronically Exchange Data

Company FTP Site set-up for City of Bainbridge Island Miller Rd - Core 40 (Tolo Rd to Peterson Hill Rd)
Email
CDs

Agreement Number: 16168

A. Agency Software Suite

MS Office v. 2010
MS Project v. 2013
AutoCAD v. 2017
Civil 3D v. 2017

B. Electronic Messaging System

Email

C. File Transfers Format

Email
AutoCAD v. 2017
Civil 3D v. 2017
Company FTP Site set-up for City of Bainbridge Island Miller Rd - Core 40 (Tolo Rd to Peterson Hill Rd)
CDs

Agreement Number: 16168

Exhibit D
Prime Consultant Cost Computations

Agreement Number: 16168

EXHIBIT D-1
SKILLINGS CONNOLLY, INC.

CONSULTANT FEE DETERMINATION - MAN-HOURS

PROJECT NAME: 16168 CITY OF BAINBRIDGE ISLAND CORE 40 MILLER ROAD SHOULDER IMPROVEMENTS		PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	SENIOR PROJECT ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	ENGINEER	SURVEY MANAGER	SURVEYOR	TECHNICIAN	INSPECTOR	PROJECT ADMINISTRATOR
TASK #	TASK DESCRIPTION											
10	PROJECT MANAGEMENT											
1	Prepare Project Management Plan	1	8	2								
2	Schedule, prepare for, and take part in weekly communications with the City.	4	16	16								
3	Prepare and periodically update a staffing Work Plan.		8	8								
4	Project quality control in-house through peer review and principal quality checks.	16	40									
5	Management Subconsultants, if any	2	8									16
6	Provide monthly Earned Value reports.		5									8
7	Prepare monthly billings with progress report.	2	5									8
20	KICK-OFF MEETING/SITE VISIT											
1	Prepare agenda and prepare for and attend kick-off meeting.		4	4								
2	Develop basic plan sheet for site walk-through based on City provided survey.			2			8					
3	Site visit to identify road design concerns; utility issues; Geotechnical issues; Environmental challenges.		2	2								
4	Project discussion to solidify ideas.		2	2	2							
30	SITE SURVEY AND BASE MAP/AND RIGHT-OF-WAY PLANS											
1	Call on-call for utility locates.								1			
2	Complete topographic survey of the site.							8	40			
3	Research rights of way and include in base map.							4	40			
4	Prepare right-of-way plans for submittal to WSDOT.							2	20			
5	Develop the survey base map.								20			
6	Prepare a DNR Monument removal Permit Application, if required.							8				
40	UTILITY AND KITSAP TRANSIT COORDINATION											
	City Task											
50	DESIGN REPORT (30% PLANS)											
1	Design diary including basis of design criteria.		2	4		4	8					
2	Preliminary plan, profile and roadway section details.			8			16			24		
3	Preliminary Drainage Report.						24					
4	Identify potential location for walls, wall type alternatives.	2	8	8			16					
5	Preliminary Engineer's Estimate of Probable Cost to Construct			2			16			16		
6	List of permits required.				2							
60	SHOULDER WIDENING DESIGN (60% PS&E)											
1 Plans:												
1a	Complete roadway sections.			1			2			4		
1b	Roadway widening plans and profiles.		4	4			16			24		
1c	Demolition and TESC plans.			2			4			16		
1d	Signing and Striping plans			2			8			16		
1e	Traffic control plans, including vehicle and pedestrian detours.			2			16			24		
1f	Property restoration plans.						16			24		
2 Retaining wall (if required):												
	Contingency item to be negotiated if needed.											
3 Stormwater/water quality design:												
3a	Site visit to review existing stormwater/water quality process.			8			8					
	Determine threshold discharge areas (TDA) and prepare maps of TDA.						8			8		
3c	Determine the design storm and runoff volume.			2			16					
3d	Calculate area of new impervious and replaced hard surfaces.						8			16		
3e	Determine if detention/retention or treatment is required.			2			4					
	Design detention/retention and/or treatment system(s) as required.						8			16		
3g	Prepare stormwater site plan.			2			4			16		
3h	Prepare SWPPP.			2			8					
3i	Prepare stormwater conveyance calculations and sizing.			2			8					
3j	Prepare stormwater report.		4	4			16					

EXHIBIT D-1
SKILLINGS CONNOLLY, INC.

CONSULTANT FEE DETERMINATION - MAN-HOURS

PROJECT NAME: 16168 CITY OF BAINBRIDGE ISLAND CORE 40 MILLER ROAD SHOULDER IMPROVEMENTS		PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	SENIOR PROJECT ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	ENGINEER	SURVEY MANAGER	SURVEYOR	TECHNICIAN	INSPECTOR	PROJECT ADMINISTRATOR
TASK #	TASK DESCRIPTION											
70	ENVIRONMENTAL - AREA OF POTENTIAL EFFECTS (APE)											
1	Submit the APE to WSDOT Local Programs for consultation with DAHP.			2	4		4			g		
2	Provide sufficient documentation of how the APE was defined.		2	4	4		4					
3	Respond to WSDOT/DAHP questions.		1	2	4		4					
80	ENVIRONMENTAL - GRAND FOREST SECT 4(f) EVALUATION											
1	Complete the WSDOT Section 4(f) De Minimis Impact Determination for (analysis).				4	g						
90	ENVIRONMENTAL - NHPA SEC 106 EVAL (IF REQUIRED)											
	Contingency item to be negotiated if needed.											
100	GEOTECHNICAL INVESTIGATION (IF REQUIRED)											
	Contingency item to be negotiated if needed.											
110	ENVIRONMENTAL DOCUMENTATION AND PERMITTING											
1	Provide coordination with Cultural Resource Consultants for cultural resources study, if required.				2							
2	Prepare a DRAFT NEPA Categorical Exclusion Document (DCE)		1	2	2	32						
2a	Section 106 Cultural Survey, unless except via APE review.		1		4							
2b	Endangered Species Act No Effect Letter.				1	g						
3	Submit a draft for City review and comment.				4	4						
4	Complete the final DRAFT NEPA Categorical Exclusion Document and provide to City for submittal to WSDOT to obtain the DCE.				2	16						
120	FINAL PLANS, SPECIFICATIONS, AND ESTIMATE (100% PS&E)											
1	Prepare following plan sheets:											
1a	Cover Sheet.			2			2			g		
1b	General note sheet.			2			4			g		
1c	Summary of quantities.						8			16		
1d	Alignment and survey control plan.			2			g		g			
1e	Demolition and TESC plans.			2			4			16		
1f	Typical roadway widening section.						2			2		
1g	Roadway plan and profile sheets.			4			8			24		
1h	Driveway details.						g			24		
1j	Stormwater plans, profiles, and details/notes.			4			16			32		
1k	Signing and striping plan and details sheets.			2			g			16		
1l	Traffic control plans.			2			4			g		
2	Complete specifications package:											
2a	WSDOT Amendments and GSP "run list" and fill-ins.			2			8					
2b	Special Provisions.		2	2			16					
2c	Required Federal-aid documents.						2					
2d	State and Federal prevailing wage documents (City task)						0					
3	Constructability review by our experienced construction inspectors.	2	4								32	
4	Review PS&E with City via face-to-face meeting or electronic plans submittal.		g	g			8					
5	Based on City's review comments, complete the 100% plans.		4	8			16					
6	Calculate final quantities and develop a quantity calculations notebook.			4			16			24		
7	Submit PS&E package to WSDOT Local Programs for:											
7a	Right-of-way plan approval.		4				4					
7b	Environmental clearance.				4							
7c	Design approval.		4									
7d	Construction authorization (when construction funds are available).		2									
g	Revise plans and specifications in response to WSDOT review comments.		2	4			g			8		
9	Prepare Final design Documentation files (design diary).	2	2	4			16					
10	Prepare environmental commitment file.			4		4						

**EXHIBIT D-1
SKILLINGS CONNOLLY, INC.**

CONSULTANT FEE DETERMINATION - MAN-HOURS

PROJECT NAME: 16168 CITY OF BAINBRIDGE ISLAND CORE 40 MILLER ROAD SHOULDER IMPROVEMENTS		PRINCIPAL-IN-CHARGE	SENIOR PROJECT MANAGER	SENIOR PROJECT ENGINEER	ENVIRONMENTAL MANAGER	PROJECT SCIENTIST	ENGINEER	SURVEY MANAGER	SURVEYOR	TECHNICIAN	INSPECTOR	PROJECT ADMINISTRATOR
TASK #	TASK DESCRIPTION											
130	RIGHT-OF-WAY SERVICES - PLANS											
1	Develop right-of-way plans and legal descriptions for temporary construction easement.			4				8	16			
2	Prepare individual parcel sketches for right-of-way negotiations.			2			4		24			
3	Submit right-of-way plans to WSDOT Local Programs for review.		2	2								
140	RIGHT-OF-WAY SERVICES - TEMP CONST PERMITS											
1	Coordination with Subconsultant.		2	8								
150	CONSTRUCTION SERVICES											
160	CONSTRUCTION CLOSE-OUT											
	HOURS PER DISCIPLINE	31	157	173	39	76	420	30	169	398	32	32

EXHIBIT D-2
SKILLINGS-CONNOLLY, INC.

CONSULTANT FEE DETERMINATION - SUMMARY

COST plus FIXED FEE					
Classification	Man Hours	x	Rate	=	Cost
PRINCIPAL-IN-CHARGE	31	x	\$158.85	=	\$4,924.22
SENIOR PROJECT MANAGER	157	x	\$149.73	=	\$23,506.83
SENIOR PROJECT ENGINEER	173	x	\$146.91	=	\$25,415.31
ENVIRONMENTAL MANAGER	39	x	\$149.73	=	\$5,839.28
PROJECT SCIENTIST	76	x	\$96.41	=	\$7,327.10
ENGINEER	420	x	\$113.55	=	\$47,690.43
SURVEY MANAGER	30	x	\$134.67	=	\$4,040.01
SURVEYOR	169	x	\$91.82	=	\$15,517.29
TECHNICIAN	398	x	\$91.82	=	\$36,543.68
INSPECTOR	32	x	\$99.47	=	\$3,183.03
PROJECT ADMINISTRATOR	32	x	\$91.82	=	\$2,938.19
Total Hours =			1557		
Direct Salary Cost =					\$176,925.36
REIMBURSABLES:					
Mileage	1,000.00	x	\$0.540	=	\$540.00
Miscellaneous Expenses	\$1,465.00	x	0%	=	\$1,465.00
SUB TOTAL					
Reimbursables =					\$2,005.00
SUBCONSULTANT COST (See Exhibit G):					
Aspect Consulting	\$0.00	x	0.00	=	\$0.00
Cultural Resource Consultants	\$0.00	x	0.00	=	\$0.00
Tierra ROW	\$0.00	x	0.00	=	\$0.00
SUB TOTAL					
Subconsultants =					\$0.00
MANAGEMENT RESERVE FUND					
SUB TOTAL		\$178,930.36	x	0%	=
MRF =					\$0.00
GRAND TOTAL					
GRAND TOTAL					=
					\$178,930.36
PREPARED BY: _____ DATE: _____					
Gerald E. Smith, PE					
REVIEWED BY: _____ DATE: _____					
Tim Horton, PE					

EXHIBIT D-3
SKILLINGS CONNOLLY, INC.
CONSULTANT FEE DETERMINATION - EXPENSES

Item	Description	Basis	Quantity	Rate	Total
1	Telephone	Month			\$0.00
2	Auto Rental	Each			\$0.00
3	Lodging	Day			\$0.00
4	Per Diem-Meal	Day			\$0.00
5	Photo Copies - Blk & White	Each	600	\$0.10	\$60.00
6	Photo Copies - Color	Each	300	\$0.35	\$105.00
7	Half Sized Prints	Each	1000	\$0.50	\$500.00
8	Full Sized Prints	Each		\$6.00	\$0.00
9	Postage	Month			\$0.00
10	Shipping	Month			\$0.00
11	FAXs	Each			\$0.00
12	Miscellaneous Project Costs	Month	5	\$100.00	\$500.00
13	Miscellaneous Survey Costs	Estimated	1	\$300.00	\$300.00
14	Traffic Control	Estimated			\$0.00
Total Miscellaneous Expenses					\$1,465.00
	Mileage	Per Mile	1000	0.540	\$540.00
Total Expenses					\$2,005.00
Assumptions					
1	Telephone	Estimated			
2	Auto Rental	Estimated trips			
3	Mileage	Estimated miles			
4	Lodging				
5	Per Diem-Meal				
6	Photo Copies - Blk & White	Estimated			
7	Photo Copies - Colored	Estimated			
8	Half Sized Prints				
9	Full Sized Prints				
10	Postage	Estimated			
11	Shipping	Estimated			
12	FAXs	Estimated			
13	Miscellaneous Project Costs	Estimated			
14	Miscellaneous Survey Costs	Estimated			
15	Purchase Order	Estimated			
Prepared by: Gerry Smith		Date:	9/12/2016		

Exhibit E

Sub-consultant Cost Computations

There isn't any sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

Exhibit F

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 this 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 this 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 the AGENCY, the 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, the 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 this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, 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 STATE, the AGENCY, 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 enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number: 16168

Exhibit G

Certification Documents

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

Agreement Number: 16168

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of Skillings Connolly, Inc.

whose address is 5016 Lacey Blvd. SE, Lacey, WA 98503

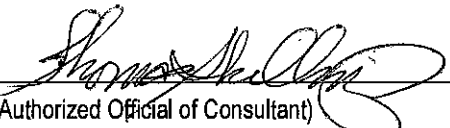
and that neither the above firm nor I have:

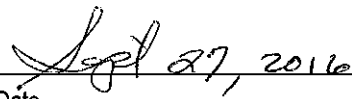
- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining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

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

Skillings Connolly, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)


Date

Agreement Number: 16168

Exhibit G-1(b) Certification of

I hereby certify that I am the:

☐

☐ Other

of the City of Bainbridge Island, and Skillings Connolly, Inc.
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; 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 furnished to the
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this
AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and
Federal laws, both criminal and civil.

Signature

Date

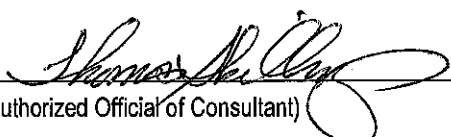
Agreement Number: 16168

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

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

Skillings Connolly, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

Sept 27, 2016
Date

Agreement Number: 16168

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

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

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

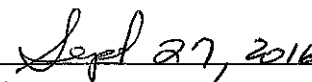
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to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

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

Skillings Connolly, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)


Date

Agreement Number: 16168

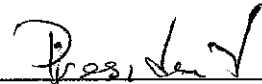
Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 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 Miller Rd Core 40 (Tolo Rd to Peterson Hill Rd)* are accurate, complete, and current as of September 26, 2016 **.

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

Firm: Skillings Connolly, Inc.


Signature


Title

Date of Execution***:

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

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

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

Agreement Number: 16168

Exhibit H

Liability Insurance Increase

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 I

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 Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

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

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

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

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

Step 4 Attempt to Resolve Alleged Design Error with Consultant

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

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

Step 5 Forward Documents to Local Programs

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

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

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) 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 Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

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

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

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

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

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs 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 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.