

Local Agency Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Does this Require DES filing? ☐ Yes ☐ No

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

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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.

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

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

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: | | | If to CONSULTANT: | | |
| Name: | | | Name: | | |
| Agency: | | | Agency: | | |
| Address: | | | Address: | | |
| City: | State: | Zip: | City: | State: | Zip: |
| Email: | | | Email: | | |
| Phone: | | | Phone: | | |
| Facsimile: | | | Facsimile: | | |

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.

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V. Payment Provisions

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

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

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

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written 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 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 fee (profit) percentage. The CONSULTANT shall bill each employee’s actual classification, and actual salary plus indirect cost rate plus fee.

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- 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 car 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.

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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 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.

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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.

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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

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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.

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Insurance Coverage

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

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

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

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

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

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

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

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

Agreement Number:

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.

Agreement Number:

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.

Agreement Number:

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.

Agreement Number:

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.

Agreement Number:

Exhibit A Scope of Work

Project No.

Agreement Number:

Attachment A - Scope of Services

| | | | |
|----------------|------------------------------------|-----|---------|
| Client Name: | Island County, WA | | |
| Project Name: | 2025 Transportation Element Update | | |
| Exhibit Dated: | April 30, 2024 | TG: | 1.24150 |

Background

Transpo Group completed a Transportation Element update for Island County in 2016. Growth has continued throughout the County since that time with additional housing developments and new commercial activity areas. The 2025 update of the Transportation Element will address all the various changes that have occurred, but also provide a good policy and planning road map for the future to respond to the changing needs and priorities of the community, as well as changes in State planning regulations. Based on our experience and familiarity with Island County, Transpo Group will assist the County staff to update its Transportation Element (TE) as part of the 2025 Comprehensive Plan Update.

Scope of Services

Based on discussions with County staff, the consultant has prepared the following scope of services to support an update of the County's TE. The primary study area will be the Island County boundaries and associated Urban Growth Areas (UGA). The scope covers a total of six major tasks:

1. Agency Coordination and Participation in County-led Community Outreach
2. Existing Conditions Evaluation
3. Goals/Policies and Multimodal LOS Standards
4. Needs Assessment
5. Improvement Projects/Programs
6. Documentation and Implementation

Key Assumptions

- County staff will review all deliverables in a timely manner.
- Existing and future land use assumptions will be summarized and provided by the County.
- Other data needs and support from the County are identified for each task.
- Meeting attendance will be virtual, unless otherwise noted.
- All deliverables will be provided electronically via PDF and in their original file format.
- All relevant and available data such as aerial photos and GIS data will be provided by the County.

Task 1. Community Outreach & Agency Coordination

The Community Engagement Program will be used to support the update of the TE. It includes four primary subtasks – regular project team meetings, online survey, online open house, and Planning Commission/County Commission meetings. The community engagement program can be coordinated with other elements of the Comprehensive Plan update, where feasible.

Subtask 1A. Regular Project Meetings with County Staff (Monthly Meetings)

Transpo will coordinate with the County Project Team on a monthly basis throughout the duration of the project. The coordination will address project scope/status, technical and policy direction, budget, schedule, and plan for the Planning Commission or County Commission meetings, and (1) online public open house. These coordination meetings will be primarily held through virtual online meetings via Microsoft Teams.

Subtask 1B. Online Survey

An online survey will be conducted to inform and gather feedback on the plan priorities. The survey would gather general input on transportation needs and priorities. Survey results would be analyzed and summarized to identify key outcomes.

Subtask 1C. Online Open House

An Online Public Open House will inform the public of the plan update and gather input, ideas, and feedback, helping to ensure the update is meeting public needs and expectations. The goal of the open house is to share the draft projects and priorities in the TE and gather feedback. Input opportunities will focus on specific projects and priorities.

Subtask 1D. Planning Commission and County Commission Meetings (4 Meetings)

Transpo will present to both the Planning Commission (2 meetings) and County Commission (2 meetings) to review results of the planning process. These four meetings (two meetings each) will be held at key junctures during the plan update to ensure their input can be utilized in decisions. It is assumed that meeting attendance will be in-person.

County Support:

- *Promote all public events through existing County communication channels (e.g., social media platforms, listservs, website)*
- *Host web page, with consultant team providing project deliverables to post*
- *Assist with staffing the open house*
- *Arrange for Planning Commission/County Commission meetings*

Consultant Deliverables

- *In-person meeting attendance at PC or CC meetings (4)*
- *Presentation materials for PC or CC meetings (4)*
- *Online open house (one online open house, preparing for, promotion materials, staffing and reporting)*
- *Online survey and summary of results*

Task 2. Existing Conditions Evaluation

This task will be used to update the existing conditions inventory and analysis documented in the current Transportation Element. It will build off the County's existing data, GIS, and recent and ongoing transportation projects. It will highlight changes that have occurred since the 2016 TE was adopted.

Subtask 2A. Review Existing Studies and Plans

The County will confirm recent transportation and land use studies and plans for use by the consultant. These will include subarea plans, corridor transportation studies/plans, development traffic impact studies, aerial photographs, GIS datasets, and similar materials. The consultant will extract relevant information for the update of the TE. The information will be utilized to assist in confirming the areas of the TE that need to be updated.

The County's current Six-Year Transportation Improvement Program (TIP) will be reviewed and summarized. This will provide the baseline for the evaluation of future conditions within the County. The consultant also will document WSDOT, County, and other agency improvements that may be applicable for the TE Update.

Subtask 2B. Assemble Transportation Data

In order to establish a solid foundation for the TE update, the consultant will assemble and analyze key transportation system data. These factors will also support development and refinements of the traffic operations and travel demand models. Data will be collected from the County, WSDOT, and other sources,

as applicable. The focus of this task will be to update the inventory to reflect changes to the transportation system since the prior TE was prepared. The following highlights key work elements of this subtask.

Roadway and Intersection Inventory

The consultant will update the existing system of roadways and intersections within the County, associated UGAs, and adjacent study areas.

Traffic Volume Data

Daily tube counts and intersection turning movement traffic counts will be gathered. The traffic count data will be used to understand changes in traffic trends since the previous TE was prepared. It is assumed approximately 15 new intersection counts and up to 15 new daily roadway counts will be collected in addition to recently available count data from Island County, WSDOT, and local island cities.

Collision Data

The consultant will assemble and analyze collision data available from Island County and WSDOT. The data will cover the most recent five-year period (2019-2023). High accident locations and corridors, as well as fatal and serious injury collisions, will be identified. The primary types and possible causes of the collisions will be identified. Collisions involving pedestrians or bicyclists will also be documented.

Notes:

- 1.) WSDOT will require Island County staff to make the collision data request, which can then be provided to Transpo.
- 2.) The IRTPO Comprehensive Safety Action plan that is under development by DKS may inform this portion of the Transportation Element.

Rail and Truck Freight

Existing truck route designations will be updated and documented. The percentage of heavy vehicle traffic in major travel corridors will also be evaluated, where available. The volume of heavy vehicles may affect the type and/or design of transportation improvements. Statewide data will be utilized to determine the approximate number and type of trains traveling through the County.

Transit Service, Ridership, and Transportation Demand Management Programs

We will update the inventory of existing transit routes and facilities serving Island County. As available, we will document existing transit ridership. We will also document locations and utilization of park-and-ride lots serving the County.

Subtask 2C – Analyze Transportation Networks

The network evaluation will identify and confirm gaps in the active transportation (pedestrian and bicycle) system, and consider any updates to roadway functional classification, truck routes, and future street connections.

Using the County's existing Synchro and Sidra traffic operations models, the existing vehicular levels of service will be updated. The measures of effectiveness reported would include intersection and roadway levels of service (LOS) and vehicle delay. Significant traffic queue impacts also will be identified for key locations. The information will be reviewed with County staff. The LOS analysis will focus on the PM peak hour.

The multimodal analysis effort will include a GIS exercise in evaluating needed updates to the multimodal transportation network maps and confirm the remaining gaps in the active transportation network. The results of the evaluation will be potential updates to the functional classification map, truck route designations, locations of future street connections, and future bicycle and pedestrian network maps.

The pedestrian system map will be updated to identify sidewalks, trails, pathways, and mid-block crosswalk locations that have been added since the TE was prepared. Locations where there are still gaps in the pedestrian system will be identified.

The bicycle system map will be updated to identify changes to the system since the last TE update. Best practices for integration of bicycle facilities into transportation networks – such as those provided in the

NACTO Urban Bikeway Design Guide, and Urban Street Design Guide – will be considered in updating the bicycle system.

Future opportunities for regional bicycle and/or multiuse trail connections between Island County and other mainland destinations will be considered and options for funding partnerships discussed.

County Support:

- *Provide latest Geographic Information Systems (GIS) base layers (aerials, streets, speed limits, intersections, sidewalks, functional class, etc.)*
- *Provide available transportation and land use studies and plans*
- *County TIP and other improvement project descriptions and status*
- *Traffic signal timing for WSDOT, County, or city signals*
- *Review and input on results of existing conditions analyses*
- *Input on existing land use data*
- *Input on transportation network maps*

Consultant Deliverables

- *Updated traffic operations model*
- *Updated transportation network maps and GIS files*
- *Maps and tables summarizing the existing transportation facilities*
- *Updated sections of the TE related to this task*
- *Slide deck summary for discussion purposes*

Task 3. Goals/Policies and Multimodal Level of Service Standards

The consultant will review the County's existing transportation goals and policies to ensure they are consistent with other policy updates by the County, while also addressing the requirements from the IRTPO and the Department of Commerce. In addition, multimodal level of service (LOS) standards will be developed as required by new legislation (ESSHB 1181).

Subtask 3A – Transportation Policy and Goal Review

The TE contains established goals and policies for the transportation system. Transpo will conduct a review and audit of Island County's existing transportation goals and policies to identify areas that may need revisions or strengthening based on the updated travel forecasts, operations, project list, right-of-way preservation needs, financing program, or new legislative requirements of GMA. Transpo will provide recommendations for draft changes for review by County staff. The review will also confirm that policies in the TE are consistent and supportive of other policies in the Comprehensive Plan. Inconsistencies will be identified, and suggested revisions will be prepared for the TE, depending on feedback from County staff. New and emerging topic areas or issues will be presented to determine if policies should be updated or expanded. Based on County comments/direction, we will finalize the goals and policies.

Subtask 3B – Multimodal Level of Service Standard Updates

The County's existing vehicular level of service standard will be reviewed throughout the update of the TE. Transpo will provide recommendations for developing multimodal LOS standards to better align with the County's overall Comprehensive Plan goals and vision, the IRTPO regional transportation plan, regional Transit plans, and new climate legislation (ESSHB 1181) amending the transportation requirements of the GMA. Transpo will assist County staff in evaluating options, based on County objectives, to identify potential modifications to its transportation concurrency and development review programs. This effort will focus on multimodal considerations and improving accessibility.

County Support:

- *Direction/comment on Multimodal Level of Service options*

Consultant Deliverables

- *List of suggested policy edits*
- *Slide deck summarizing multimodal LOS options*

Task 4. Needs Assessment

This task will focus on defining Island County's transportation systems improvement needs. It will build off the existing conditions, travel forecasts, and operations analyses.

Subtask 4A – Update Travel Demand Model

This task involves updating the current IRTPO travel demand model to a 2024 base year model to reflect current conditions in preparation for using the model to develop 20-year forecasts and other metrics. It is anticipated that the model network and transportation analysis zones (TAZs) will not need major changes, other than reducing the area to just Island County. Land use data for the base year will be assembled for each TAZ based the previous model, U.S. Census data, and cross-checked by the County. It's important that the County provide land use control totals that match information in the Land Use Element.

The model will continue to be based on weekday PM peak hour conditions using the Visum software platform. The base year for the calibration model will be 2024. The forecast year of the model will be consistent with the Comprehensive Plan horizon year. Other minor model parameter updates will be performed based on the current state of the practice and anticipated model needs.

Subtask 4B - Prepare Future Traffic Forecasts

Future traffic forecasts will be developed from the updated IRTPO travel demand model. The future land use inputs by TAZ will be developed in coordination with County staff. The revised land use data will be input into the IRTPO model along with the planned transportation improvements to generate future PM peak hour traffic volumes. The resulting forecasts will be reviewed for reasonableness and adjustments will be made, if needed.

Subtask 4C – Evaluate Future Baseline Conditions and Alternatives

Using the traffic forecasts, future baseline LOS will be calculated. Similar to the existing conditions summary, future intersection operations will be summarized using similar metrics. The Synchro and Sidra analysis will be used to further refine the improvements and assist in evaluating the overall improvements to the transportation system. The model will also be used to evaluate potential future roadway connections to determine their overall impact on the transportation network.

Subtask 4D – Future Framework Plan

Using the assessment of the pedestrian and bicycle network gaps and an understanding of vehicle travel forecasts and LOS, areas in need of improvement will be confirmed. The effort will include both a GIS exercise in locating specific gaps in the network, and a review of the traffic operations evaluation prepared using the travel demand model. The results of the evaluation will be a preliminary map of locations in need of improvement that can then be discussed and shared with staff to form the basis of preparing a long-term project list. The pedestrian, bicycle, transit, and roadway systems maps will be redlined to note potential updates to consider.

In addition to formal transportation analysis and forecasting, long-range planning will also include anticipated emerging transportation trends that may change traditional assumptions concerning transportation systems. Within the last two decades, technology has evolved rapidly in the realm of autonomous, connected, shared, and electric vehicles. It is likely that by the end of the planning period (2045), some or all of these technologies will be in operation on a regular basis. This plan will consider how to address some of these emerging technologies and the impacts they may have on the transportation network.

County Support:

- *Estimates of future land use*
- *Identification of future baseline projects, street connections, and alternative network scenarios*

Consultant Deliverables

- *Existing and Forecast year (2045) travel demand model*
- *Forecast year (2045) operations models*
- *Maps identifying future needs*
- *Slide deck summarizing key task findings*

Task 5. Improvement Projects/Programs

This task will focus on defining Island County's transportation systems improvement needs. It will build from the existing conditions, travel forecasts, network analysis, and performance evaluation. The long-range transportation improvement projects and programs will be updated to reflect the prior analysis.

Subtask 5A – Transportation Improvement Project List

The County's long-term list of transportation improvement projects and programs will be updated. The improvement projects and programs will be defined to address roadways and intersections, active transportation, safety, transit, and freight. The improvement projects and associated information will be summarized in tabular form. The projects will be mapped in GIS to illustrate the locations and relationships of the improvements. In addition to the specific improvement projects, a broader set of transportation program needs will be confirmed such as maintenance and operations, and neighborhood traffic safety.

Subtask 5B – Cost Estimates and Priorities

Project cost estimates will be developed using a planning-level cost model that incorporates specific assumptions related to unit costs. The parameters for the cost model will account for "bid tabs" from recent improvement projects in the County and adjacent communities. A desktop exercise to review project locations will be conducted to identify any environmental or other issues that could affect the cost estimates. The resulting planning level cost estimates will provide a reasonable foundation for the financial plan.

Each improvement project will be assigned a relative priority (e.g. high, medium, low) and anticipated timing (e.g. short [6-year], medium, long). The priority and timing will be based on goals and policies of the existing plan, input during the plan update, and the potential for funding. The priorities and timing will likely be adjusted based on the financing program.

County Support:

- *Recent project bids*
- *Review and input on priorities and timing of improvements*

Consultant Deliverables

- *Project list and map*
- *Planning level cost estimates*

Task 6. Documentation and Implementation

The consultant will assemble the work completed in the prior tasks and update the TE document for adoption by County Commission.

Subtask 6A – Update Transportation System Plans

Each of the following system plans will be updated consistent with the identified transportation network refinements, project list, financing plan, and the updated goals and policies. A discussion of implementation strategies will also be provided.

Street System

Improvement projects for the County road and state-owned highway system will be identified to resolve existing and future roadway deficiencies and performance issues. The roadway functional classification will also be reviewed and updated to support the overall transportation system.

Freight Systems

Truck routes serving the County will be reviewed and updated, as needed, to be consistent with the revised goals and policies.

Pedestrian and Bicycle Systems

The pedestrian and bicycle systems plans will be revised and updated. The update will focus on incorporating new links or reflecting changes in on-street active transportation facilities associated with roadway projects or planned off-street trail connections.

Public Transportation System and Transportation Demand Management

Public transportation service and facility needs will be identified to support the County's TE. Transit options to serve forecast growth areas as well as existing needs will be identified. A transit system map will be prepared to identify the corridors served by transit today, and those the County will work with regional transit providers in the future to advocate for additional transit service. The public transportation system plan will be coordinated with the street and highway, and non-motorized improvements to make sure these Plans help support the proposed transit service programs. Strategies to reduce traffic volumes through transportation demand management programs will also be documented.

Subtask 6B – Update Financing Plan

The County will provide the consultant with financial summaries of revenues and expenditures related to transportation covering the past 3 to 4 years. Revenues will include fuel tax revenues, Capron funds, real estate excise taxes, general funds, grants, and other transportation funding. Expenditures will include capital projects, maintenance, operations, administration, and other costs related to maintaining the transportation system.

The revenues and expenditures will be summarized for use in extrapolating potential future funding levels from existing sources. Estimates of future revenues from these sources will be prepared and reviewed with appropriate County staff. Estimates of future expenditures for maintenance, operations, and administration also will be provided by the County.

Based on the levels of existing revenues versus expenditures, other potential funding options will be evaluated. These will include:

- Partnering with state or other agencies to fund improvements
- State or federal grants
- SEPA mitigation
- Frontage improvements
- Transportation Benefit District
- Business Improvement Districts or Special Assessment Districts
- Street levy
- Transportation Impact Fees

The draft financing program will be summarized in tabular form. As required by GMA, the TE must identify a reassessment strategy if anticipated funding is not sufficient to cover the total costs of the improvement projects and programs. We will update implementation strategies and associated policies to meet that requirement.

Subtask 6C – Prepare Draft and Final Transportation Element

The updated multimodal transportation system projects and programs, the goals and policies, and the financial plan will be brought together into an updated draft TE. The preliminary draft TE will be provided to County staff for review in electronic format. Based on comments, a draft final TE document will be prepared for review by the Planning Commission and County Commission.

Following review and comment by the Planning Commission and County Commission, the TE will be finalized and transmitted to Department of Commerce and IRTPO for review. This assumes only editorial type changes and does not provide for significant changes in policy direction, the transportation system plans, or similar larger scale revisions.

County Support

- *Summaries of County's transportation revenues and expenditures for past 10 years*
- *Review of overall financing program for TE*
- *Review and input on draft and final TE*

Consultant Deliverables

- *Finance spreadsheet files*
- *Draft/Final Transportation Element in electronic format*
- *Slide deck summary of key TE findings and recommendations*

Task 7. Optional Implementation Tasks

Under a supplemental contract for an additional fee after the completion and adoption of the Island County Comprehensive Plan, Transpo Group can assist Island County staff with implementation ordinances and strategic funding opportunities to implement the Transportation Element.

Subtask 7A – Grant Application Assistance

Transpo Group has demonstrated success in securing state and federal grant funding for counties and cities throughout Washington and can assist Island County staff to prepare grant application for the following funding sources listed below.

- Development of 2025 Island County Local Road Safety Plan (LRSP) and County Safety Program grant application (February 2025) for Highway Safety Improvement Program (HSIP) funding.
- Development of 2025 Complete Streets Ordinance to be eligible for Washington Transportation Improvement Board (TIB) Complete Streets grant funding and development of June 2025 TIB Complete Streets grant application.
- Development of WSDOT grant applications for 2026 Safe Route to School and 2026 Pedestrian Bicycle Safety

Subtask 7B – Concurrency Framework Updates

The consultant will review and evaluate the County's concurrency policies. We will then help the County define the primary objectives for the concurrency management program, which will guide the program update. We will summarize program examples of other counties and cities in Western Washington to develop a set of program alternatives. These alternatives will be evaluated based on their adherence to the County's broad objectives. Based on results of the evaluation, and direction from the County staff completed earlier, The consultant will fully develop the methodology and tools for Island County's new multimodal transportation concurrency management program.

Draft Program Administrative Guidelines

The administrative guidelines will outline the concurrency management program and highlight the process by which the County evaluates and monitors concurrency. The program will develop a process to track development projects and process concurrency applications and certificates.

Concurrency Ordinance

The consultant will develop, update, or enhance Island County's transportation concurrency management ordinance based upon the outcomes of the previous tasks.

Subtask 7C – Development of Transportation Impact Fee Ordinance and Program

If Island County has any interest in developing and adopting a Transportation Impact Fee (TIF) program, then Transpo can assist in creating a multimodal TIF program to supplement Island County's transportation revenue. In 2023, Senate Bill 5452 became effective and explicitly allows TIF revenue to be used for independent pedestrian and bicycle projects rather than just vehicle capacity projects. This would allow Island County to add sidewalks, bike lanes, and multiuse pathways to a TIF project list. The travel demand model and updated project list/costs provide a basis for a Transportation Impact Fee Program. The model would be used to allocate TIF project costs to the impact fee. The model would be used to identify the proportion of growth trips versus existing traffic at each project. Cost allocations also would consider assessment of grants and the cost for resolving existing deficiencies. The product of this task would be a cost allocation spreadsheet. The impact fee rate schedule would be updated to reflect the revised project costs and cost allocations. A TIF ordinance would be adopted with reference to a fee schedule for TIF to be assessed to new development at the time of building permit issuance.

Exhibit B
DBE Participation Plan

Agreement Number:

Preparation and Delivery of Electronic Engineering and Other Data

The following describes the format and standards the CONSULTANT is to use in preparing electronic files for transmission to the AGENCY. All Electronic files provided shall be compatible with the software version currently in use by the AGENCY. The format and standards to be provided may include, but not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation:

Upon AGENCY approval and acceptance of the final signed and stamped plans, the CONSULTANT shall provide to the AGENCY the final electronic data, files, and resources for all survey, roadway design, and plans associated with the project. This information shall be delivered on a compact disc (CD) that includes an index file listing all the files with a brief description of the contents and purpose of each file. Electronic data and files shall be prepared, organized, and delivered as described in Sections A, B, and C below and as described in the Electronic Engineering Data Standards Manual posted on the WSDOT CAE Consultant Resources web site.

<http://www.wsdot.wa.gov/Publications/Manuals/index.htm>

- Plan Sheet Size: 22"x34" (Full Size) and 11"x17" (half size)
- Scale Range: 1"=50' to 1"=20' Horizontal
1"=5' Vertical
- Cross Section: 1"=10' Horizontal and Vertical

A. Surveying: Survey data shall be collected using WSDOT methodologies as defined in the Highway Survey Manual (M22-97 Jan 2005) and all applicable professional surveying practices.

All primary survey control shall be established using Washington State Plane (NAD 83/91) and North American Vertical Datum of 1988 (NAVD 88) in English units. Primary control shall be transformed to project datum by applying the appropriate combined correction factor (scale factor, elevation factor.) All secondary control and topography work shall be done on the Project Datum.

The CONSULTANT shall prepare and deliver the electronic survey information in Civil 3D format in accordance with Division 1, Section 5.01 of the Electronic Engineering Data Standards Manual.

B. Roadway Design: The AGENCY supported version of Civil 3D, current at the date of execution of the AGREEMENT, shall be used for all computer aided roadway design calculations. If the AGENCY upgrades to a newer version after the date of execution, the CONSULTANT, at their discretion, may use the more current AGENCY supported version. The AGENCY custom resource files and CAD standards shall be used where applicable. All Civil 3D files shall be prepared using Project Datum as defined in Section "A" above.

The CONSULTANT shall prepare and deliver the electronic roadway design information in accordance with Division 1, Section 6.02 of the Electronic Engineering Data Standards Manual.

C. Plans Preparation: Plans developed with Computer Aided Drafting "CAD" software shall adhere to the expanded level standards defined in the Plans Preparation Manual (M22-31.) CAD files shall use a Project Datum as defined in Section "A" above.

The CONSULTANT shall prepare and deliver the CAD files in accordance with Division 1, Section 7 of the Electronic Engineering Data Standards Manual. CAD basemap and sheet files shall be delivered as 3D files in a format that can be used directly by Civil 3D without translation.

D. Right to Review Product by the AGENCY: The AGENCY reserves the right to schedule visits at the CONSULTANT's location to review electronic files for compliance with the AGENCY methodologies and standards. The CONSULTANT may request visits by the AGENCY to review electronic files.

- E. **AGENCY Furnished Services and Information:** The AGENCY will provide access to computer aided engineering support personnel for information about setting up and using the AGENCY custom resources and procedures for Civil 3D and AutoCAD.

General training on how to use Civil 3D and AutoCAD software will be the responsibility of the CONSULTANT.

II. Photogrammetric Mapping Services

- A. **Photogrammetry Deliverables:** If included in the scope of work, the CONSULTANT shall provide photogrammetric mapping services and any related services deemed necessary to include, project design, aerotriangulation, and compilation using current generation analytical and / or softcopy systems to produce and deliver 3D Computer Aided Drafting and Design (CADD) files; Digital Ortho Photos; and hardcopy plots. In all cases, data will be compiled to WSDOT specifications for accuracy, completeness, and file management. Delivery will be in the format consistent with that currently in use by WSDOT. A current listing and description of WSDOT procedures, methodology, software, equipment, and systems will be made available by contacting WSDOT Photogrammetry Section at 360-709-5540.

All map files shall be delivered to the AGENCY in unedited, unprocessed form, directly from the stereoplotter system where the data was compiled from the stereomodel. The AGENCY regards these files not as a finished cartographic product, but rather as raw data to be used in the preparation of alignments, design templates, and contract plans. Therefore, it is desirable to have the data exactly as interpreted and measured by the photogrammetrist without subsequent adjustment for aesthetic purposes. No attempt should be made to compile data where the ground is not clearly visible.

The CONSULTANT shall also provide to the AGENCY the negatives for all original aerial photography used to produce the photogrammetry data.

- B. **Right to Review Photogrammetric Product by the AGENCY:** The AGENCY reserves the right to schedule visits at the CONSULTANT's location to review procedures, systems, methodology, software, and qualifications for assurance of meeting WSDOT standards. The review(s) will include monitoring electronic file format and organization. The AGENCY reserves the right to review deliverables for compliance, completeness, and level of quality.

III. Project Scheduling

- A. When preparing project schedule, the CONSULTANT must use Microsoft Project or other approved software.

IV. Highway Capacity:

When reporting level of service for intersection analysis, the CONSULTANT must report the LOS of the worst movement. When analyzing future LOS, current count data must be projected to 6 years from anticipated project completion. The annual growth rate must be calculated based on historical counts at or near the project area. Consultant shall utilize the most current version of the analysis and/or modeling software appropriate to the specific project assigned. Tools and data sets to be used must be agreed upon by the County project manager in advance.

V. Media Presentation:

- A. Microsoft PowerPoint
B. Simulation Model: Commonly used video file types

VI. Any Other Electronic Files to be Provided:

- A. Computer-Aided Design and Drafting: Latest AGENCY approved version of AutoCAD Civil 3D

VII. Methods of Electronically Exchanged Data:

- A. Agency Software Suite:
 - Microsoft Office 2016
 - Adobe Acrobat Reader for PDF files
- B. Electronic File Transfer:
 - Where appropriate, the CONSULTANTS can use “Internet” or “smtp” mail to send routine written correspondence.
 - Sending and receiving attached documents to e-mail message should be done in “rich-text” format that conserves formatting on the original document.
 - Files less than 20 MB: may use e-mail system.
 - Files 20 MB or larger use AGENCY or CONSULTANT ftp site. Files on the FTP site are not private and have a limited retention time.
- C. File Transfer Format:
 - Reports/documents prepared with Microsoft Office file format submitted for AGENCY review and comments must be submitted in its native file format.
 - Final reports/documents must be submitted in a PDF format.
- D. Any Other Electronic Files to be Provided:
 - Deliverables identified in Exhibit A – Scope of Services may be saved on a CONSULTANT administered SharePoint site, if used, and AGENCY provided a hard copy during the Project. AGENCY will be provided with a copy of the digital SharePoint files on a thumb drive (USB Stick) at Project Closeout.

Exhibit D
Prime Consultant Cost Computations

Agreement Number:



Cost Estimate Worksheet

| |
|---|
| 1.24150.00 |
| Island County 2025 Transportation Element Update |

Pay rates are effective through June 3, 2022, within the ranges shown in the attachment.
Only key staff are shown and other staff may work on and charge to the project as needed by the project manager.

| | Project Manager | Senior Engineer | Senior Planner | Project Planner | Civil Engineer | Modeler | GIS | CAD/ Graphics | Project Admin |
|----------------|-----------------|-----------------|----------------|-----------------|----------------|---------|---------|---------------|---------------|
| initials | PBL | BMT | CJC | JH2 | CAC2 | JL1 | CAR | CD | AMC |
| labor category | Prin L7 | Eng L6 | Plnr L6 | Anyl L1 | Eng L5 | Eng L4 | Tech L1 | PA L4 | PA L5 |
| cost rate | \$300 | \$260 | \$235 | \$140 | \$230 | \$190 | \$125 | \$160 | \$195 |

Labor:

| | Work Task | | | | | | | | | Hours | Cost |
|----|---|----|----|----|----|-----|----|----|---|-------|----------|
| 1 | Task 1 - Cmty Outreach & Agency Coord | | | | | | | | | | |
| 2 | 1A - Prj Mtgs (monthly) | 12 | 6 | 18 | | 4 | | | 9 | 49 | \$11,905 |
| 3 | 1B - Online Survey | 2 | | 6 | 24 | | | 16 | | 48 | \$7,930 |
| 4 | 1C - Online Open House | 8 | | 12 | | | 12 | 16 | | 48 | \$9,280 |
| 5 | 1D - PC & CC Mtgs (4 mtgs) | 20 | 8 | 20 | | | 8 | 20 | | 76 | \$16,980 |
| 6 | Task 2 - Existing Conditions Eval | | | | | | | | | | |
| 7 | 2A - Review Existing Studies/Plans | 4 | 14 | 16 | 20 | | 10 | | | 64 | \$12,650 |
| 8 | 2B - Assemble Transportation Data | 4 | 8 | 4 | 20 | | 16 | | | 52 | \$9,020 |
| 9 | 2C - Analyze Transportation Networks | 4 | 12 | 4 | 16 | | 16 | | | 52 | \$9,500 |
| 10 | Task 3 - Goals/Policies & MMLOS Stds | | | | | | | | | | |
| 11 | 3A - Policy & Goal Review | 4 | | 24 | 12 | | | | | 40 | \$8,520 |
| 12 | 3B - MMLOS Stds | 8 | 8 | 24 | 8 | | 8 | 4 | | 60 | \$12,880 |
| 13 | Task 4 - Needs Assessment | | | | | | | | | | |
| 14 | 4A - Update Travel Demand Model | 4 | 24 | | | 100 | | | | 128 | \$26,440 |
| 15 | 4B - Prepare Future Traffic Forecasts | 4 | 16 | 4 | | 8 | | | | 32 | \$7,820 |
| 16 | 4C - Eval Future Baseline & Alts | 4 | 2 | 4 | 8 | | | | | 18 | \$3,780 |
| 17 | 4D - Future Framework Plan | 4 | 8 | 4 | 8 | | 4 | | | 28 | \$5,840 |
| 18 | Task 5 - Improvement Projects/Programs | | | | | | | | | | |
| 19 | 5A - Transportation Imp Project List | 6 | 16 | 8 | 8 | | 8 | | | 46 | \$9,960 |
| 20 | 5B - Cost Estimates & Priorities | 4 | 8 | | 8 | 30 | | | | 50 | \$11,300 |
| 21 | Task 6 - Documentation & Implementation | | | | | | | | | | |
| 22 | 6A - Update Trans Systems Plans | 6 | 8 | 16 | | | 16 | | | 46 | \$9,640 |
| 23 | 6B - Update Financing Plan | 8 | 2 | 12 | 20 | | | | | 42 | \$8,540 |
| 24 | 6C - Draft & Final TE | 16 | 16 | 24 | 70 | | 24 | 24 | | 174 | \$31,240 |
| 25 | | | | | | | | | | 0 | \$0 |
| 26 | | | | | | | | | | 0 | \$0 |
| 27 | | | | | | | | | | 0 | \$0 |
| 28 | Flexible Management Reserve | | | | | | | | | | |
| 29 | | | | | | | | | | 0 | \$0 |
| 30 | | | | | | | | | | 0 | \$0 |

| | | | | | | | | | | | |
|--------------------|-----------------|-----------------|-----------------|-----------------|----------------|-----------------|-----------------|-----------------|----------------|-------------|------------------|
| Total Hours | 122 | 156 | 200 | 222 | 30 | 112 | 122 | 80 | 9 | 1053 | |
| Labor Costs | \$36,600 | \$40,560 | \$47,000 | \$31,080 | \$6,900 | \$21,280 | \$15,250 | \$12,800 | \$1,755 | | \$213,225 |

Reimbursable Expenses:

| Item | Reimb. Cost |
|------------------------------------|-----------------|
| 1 Application | |
| 2 Business Meals | |
| 3 Mileage | \$500 |
| 4 Miscellaneous | |
| 5 Models/Renderings/Photos | |
| 6 Parking | |
| 7 Records Filing | |
| 8 Registrations | |
| 9 Reproductions | |
| 10 Shipping/Courier | |
| 11 Specialty Software | |
| 12 Public Outreach Supplies | \$500 |
| 13 Traffic Accident Data | |
| 14 Traffic Count Vendors | \$10,000 |
| 15 Travel, Hotel, Taxi, & Air Fare | |
| Total | \$11,000 |

Subconsultants:

| Firm | Subs. Cost |
|----------------------------------|------------|
| 1 Subconsultant A | |
| 2 Subconsultant B | |
| 3 Subconsultant C | |
| 4 Subconsultant D | |
| 5 Subconsultant E | |
| Sub Total | \$0 |
| Total (Cost + 15 percent) | \$0 |

| | |
|-----------------------|------------------|
| TOTAL | \$224,225 |
| TOTAL ESTIMATE | \$224,225 |

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.

Agreement Number:

Exhibit F - Title VI Assurances Appendix A & E

APPENDIX A

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

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

Exhibit F - Title VI Assurances Appendix A & E

APPENDIX E

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

Pertinent Non-Discrimination Authorities:

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

Exhibit G

Certification Documents

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

Agreement Number:

Exhibit G-1(a) Certification of Consultant

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

and that neither the above firm nor I have:

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

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

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

Exhibit G-1(b) Certification of

I hereby certify that I am the:

☐

☐ Other

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

- a) Employ or retain, or agree to employ to retain, any firm or person; 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:

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.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

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

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the 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.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

Date

Agreement Number:

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 _____* are accurate, complete, and current as of _____**.

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

Firm:

Signature

Title

Date of Execution***:

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)
**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.
***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

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 XII, Legal Relations and Insurance of this Agreement is amended to \$

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

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

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

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

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

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

Notes: Cost of added insurance requirements: \$

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

Agreement Number:

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.

Agreement Number:

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.

Agreement Number:

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 met 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 in needed regarding the claim procedures.

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

Agreement Number:

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.

Agreement Number:

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF
ADOPTING THE REVISED ISLAND COUNTY
FINANCIAL MANAGEMENT POLICY**

)
) **RESOLUTION C-XX-24**
)

WHEREAS, the stewardship of public funds is one of the greatest responsibilities given to the elected officials and managers of Island County; and

WHEREAS, the Board of County Commissioners finds that the fiscal health and welfare of Island County is highly dependent upon establishing and maintaining sound, financial planning objectives and strategies; and

WHEREAS, the Island County Financial Management Policy adopted June 13, 2011, formalized prudent, existing financial practices and incorporated new fiscal planning; and assisted the decision-making process by providing guidelines for evaluating both current activities and proposals for future programs and services; and

WHEREAS, best practices and current fiscal planning processes have changed requiring an update to the Island County Financial Management Policy; and **NOW THEREFORE**,

BE IT HEREBY ORDAINED, that the Board of Island County Commissioners hereby adopts the updated Island County Financial Management Policy, attached hereto as Exhibit A.

ADOPTED this day, June XX, 2024

**Board of County Commissioners
Island County Washington**

Jill Johnson, Chair

Melanie Bacon, Member

Janet St. Clair, Member

Attest:

Jennifer Roll, Clerk of the Board