



# SELAH CITY COUNCIL

5:30pm July 13, 2021



*Selah City Council  
Regular Meeting  
Tuesday, July 13, 2021  
5:30pm  
Via Zoom*

Mayor:  
Mayor Pro Tem:  
Council Members:

Sherry Raymond  
Roger Bell  
Russell Carlson  
Jacquie Matson  
Kevin Wickenhagen  
Clifford Peterson  
Suzanne Vargas  
Michael Costello

CITY OF SELAH  
115 West Naches Avenue  
Selah, Washington 98942

Interim City Administrator:  
City Attorney:  
Clerk/Treasurer:

Joe Henne  
Rob Case  
Dale Novobielski

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## AGENDA

- A. Call to Order –Mayor Raymond
- B. Roll Call
- C. Councilmember Absence – Motion to Excuse
- D. Pledge of Allegiance
- E. Invocation
- F. Agenda Changes **None**
- G. Public Appearances/Introductions/Presentations
  - 1. Katrina Henkle, Selah Downtown Association – Update
- H. Getting To Know Our Businesses **None**
- I. Communications
  - 1. Oral

We are presently conducting the regular meeting portion of today's session. State law does not require a noncharter code city, such as the City of Selah, to allot time for public comment during a regular meeting between the Mayor and City Council. Historically, the City has chosen to allot time for public comment during its regular meetings, subject to a maximum of two minutes per commenter and common-sense standards of decorum. Recently, those standards of decorum have been increasingly infringed.

Those wishing to offer public comments during a regular meeting must comply with the following process and standards. Each commenter must state his/her full name and whether he/she is a registered voter residing within the city limits of Selah. Each commenter is limited to one comment and a maximum duration of two minutes per regular meeting. A maximum of thirty minutes per regular meeting will be allotted for all public comments. Comments must be constructive and respectful; no profanity, insults, defamation, or direct or implied personal attacks will be allowed. Criticism of City policy is allowed, but personal criticism of any individual is not allowed. The public comment process is not a question-and-answer process. Also, each commenter should speak solely for himself/herself rather than purporting to speak on behalf of others, repeating verbatim or nearly verbatim what another commenter has said, or repeating what a written document says.

In-person comments will be heard from the podium in the order offered by commenters (and during the Covid shutdown, written comments will be read aloud in the order received by City staff and telephonic comments may also be heard). The Mayor may cut off any in-person or telephonic comment that he/she deems inappropriate (and City staff, at the direction of the Mayor, may disallow or modify any written comment that is deemed inappropriate).

These standards are subject to revision. Those who infringe the applicable standards may be barred from offering public comments during future regular meetings.

Public comment during regular meetings is not the exclusive method to communicate with the Mayor or the City Council on any topic. People may send emails or letters, leave voicemails, or request in-person meetings, to or with the Mayor or any member(s) of the City Council. The Mayor and each member of the City Council has personal discretion over how and when he/she might respond to emails, letters, voicemails, and requests for in-person meetings.

2. Written **None**

J. Proclamations/Announcements **None**

K. Consent Agenda

All items listed with an asterisk (\*) are considered routine by the City Council and will be enacted by one motion, without discussion. Should any Council Member request that any item of the Consent Agenda be considered separately, that item will be removed from the Consent Agenda and become a part of the regular Agenda.

Monica Lake \* 1. Approval of Minutes: June 8, 2021 Council Meeting  
Dale N. \* 2. Approval of Claims & Payroll

L. Public Hearings **None**

M. General Business

1. New Business

Joe Henne 1. Informational Only – To update the City Council on the Status of Hiring an Architect to Design a Law and Justice Center

2. Old Business **None**

N. Resolutions

Joe Henne 1. Resolution authorizing the Mayor to sign a WSDOT Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Engineering Design services for the Fremont Avenue Sidewalk Improvements Project

Joe Henne 2. Resolution authorizing the Mayor to sign Task Order 2021-08 between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Professional Engineering Services for the Selah School District John Campbell Project Improvements to W Bartlett and N 3rd Street

Joe Henne 3. Resolution authorizing the Mayor to sign a Contract between the City of Selah and BCV Inc., of Wenatchee, Washington to provide Construction Services for the 2021 Crack Sealing Project

Rob Case 4. Resolution Confirming the Mayor's Appointment of Joe Henne as City Administrator With a Retroactive Effective Date of July 1, 2021 (following Mr. Henne having briefly served as acting/interim City Administrator since late May) and Reciting Certain Aspects of Mr. Henne's Compensation and Benefits

O. Ordinances **None**

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments
2. Council Members
3. City Administrator
4. Boards
5. Mayor

**None**

R. Executive Session

**None**

S. Adjournment

*Next Regular Meeting July 27, 2021*

Each item on the Council Agenda is covered by an  
Agenda Item Sheet (AIS)

A yellow AIS indicates an action item.

A blue AIS indicates an information/non-action item.





**CITY OF SELAH**  
***CITY COUNCIL***  
***AGENDA ITEM SUMMARY***



Council Meeting	Action Item
7/13/2021	K – 1

**Title:** Approval of Minutes: June 8, 2021 Council Meeting

**From:** Monica Lake, Executive Assistant

**Action Requested:** Approval

**Staff Recommendation:** Approval of Minutes

**Board/Commission Recommendation:** Not Applicable

**Fiscal Impact:** N/A

**Funding Source:** N/A

**Background / Findings & Facts:** See Minutes for details

**Recommended Motion:** Motion to approve the Consent Agenda as read.  
(This item is part of the Consent Agenda)

City of Selah  
Council Minutes  
June 8, 2021

Regular Meeting  
Electronically Via Zoom

A. Call to Order Mayor Raymond called the meeting to order at 5:30 pm.

B. Roll Call

Members Present: Kevin Wickenhagen; Jacquie Matson; Clifford Peterson; Roger Bell; Michael Costello; Russell Carlson

Members Absent: Suzanne Vargas

Staff Present: Joe Henne, Interim City Administrator; Rob Case, City Attorney; Dan Christman, Police Chief; Jim Lange, Fire Chief; Mickey Gillie, Deputy Fire Chief; Jeff Peters, Community Development Supervisor; Ty Jones, Public Works Utility Supervisor; Zack Schab, Recreation Manager; Treesa Morales, Public Records Specialist; Monica Lake, Executive Assistant

C. Councilmember Absence – Motion to Excuse

**Council Member Bell moved, and Council Member Wickenhagen seconded, to excuse Council Member Vargas. By a show of hands, approval was unanimous.**

D. Pledge of Allegiance

Council Member Bell led the Pledge of Allegiance.

E. Invocation

Pastor Tom Morris gave the prayer.

F. Agenda Changes **None**

G. Public Appearances/Introductions/Presentations

1. Katrina Henkle, Selah Downtown Association – Update

Katrina Henkle, Selah Downtown Association (SDA) Executive Director, gave a report on SDA activities.

H. Getting To Know Our Businesses **None**

I. Communications

1. Oral

One public comment, from Debi Freudenthal, was submitted and read aloud.

2. Written **None**

J. Proclamations/Announcements **None**

K. Consent Agenda

Executive Assistant Lake read the Consent Agenda.

All items listed with an asterisk (\*) were considered as part of the Consent Agenda.

- \* 1. Approval of Minutes: May 25, 2021 Council Meeting
- \* 2. Approval of Claims and Payroll:
  - Payroll Checks Nos. 84236 – 84251 for a total of \$320,312.51
  - Claim Checks Nos. 176596 – 176650 for a total of \$185,358.93
- \* 3. Resolution N – 5: Resolution Authorizing the Mayor and Clerk/Treasurer to Pay Continued Salary and Provide Continued Fringe Benefits to and for Former Employee Donald C. Wayman through the Date of June 30, 2021, Despite Mr. Wayman’s Final Day of Employment Being May 25, 2021

**Council Member Wickenhagen moved, and Council Member Peterson seconded, approval of the Consent Agenda as read. By a show of hands, approval was unanimous.**

L. Public Hearings

1. Public Hearing to Consider the Resolution adopting the Six Year Transportation Improvement Program for Secondary and Arterial Streets within the City of Selah for the years 2022 to 2027

Introduced by Mayor Raymond and presented by Interim City Administrator Henne.

Mayor Raymond opened the Public Hearing. Council Member Matson provided the only comment.

**Council Member Vargas joined the meeting.**

Seeing no one else wish to speak, Mayor Raymond closed the Public Hearing.

M. General Business

1. New Business **None**

2. Old Business None

N. Resolutions

1. Resolution adopting the Six Year Transportation Improvement Program for Secondary and Collector Arterial Streets within the City of Selah for the years 2022 to 2027

Introduced by Mayor Raymond and presented by Interim City Administrator Henne.

**Council Member Matson moved, and Council Member Carlson seconded, to Approve the Resolution adopting the Six Year Transportation Improvement Program for Secondary and Collector Arterial Streets within the City of Selah for the years 2022 to 2027. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.**

2. Resolution Authorizing the Mayor to Sign an Interlocal Agency Agreement between the City of Selah and Yakima County for Right-of-Way Acquisition Services for the Valleyview-South 3rd Street-Southern Avenue Reconstruction Project

Introduced by Mayor Raymond and presented by Interim City Administrator Henne. After discussion,

**Council Member Wickenhagen moved, and Council Member Bell seconded, to Approve the Resolution Authorizing the Mayor to Sign an Interlocal Agency Agreement between the City of Selah and Yakima County for Right-of-Way Acquisition Services for the Valleyview-South 3rd Street-Southern Avenue Reconstruction Project. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.**

3. Resolution Authorizing the Mayor to Sign a Task Assignment, through an Interlocal Agreement, with Yakima County Road Right-of-Way Department (Identified below as Yakima County) to perform the Right-of Way Acquisition Services for the Valleyview, South 3rd Street and Southern Ave. Reconstruction Project

Introduced by Mayor Raymond and presented by Interim City Administrator Henne.

**Council Member Peterson moved, and Council Member Carlson seconded, to Approve the Resolution Authorizing the Mayor to Sign a Task Assignment, through an Interlocal Agreement, with Yakima County Road Right-of-Way Department (Identified below as Yakima County) to perform the Right-of Way Acquisition Services for the Valleyview, South 3rd Street and Southern Ave. Reconstruction Project. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.**



4. Resolution authorizing the Mayor to sign Task Order 2021-07 between the City of Selah and HLA Engineering and Land Surveying, Inc., to study potential traffic impacts to the City's transportation system that would result from the full build-out of the Crusher Canyon Sewer Area

Introduced by Mayor Raymond and presented by Community Development Supervisor Peters. After discussion,

**Council Member Bell moved, and Council Member Peterson seconded, to Approve the Resolution authorizing the Mayor to sign Task Order 2021-07 between the City of Selah and HLA Engineering and Land Surveying, Inc., to study potential traffic impacts to the City's transportation system that would result from the full build-out of the Crusher Canyon Sewer Area. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.**

- \* 5. Resolution Authorizing the Mayor and Clerk/Treasurer to Pay Continued Salary and Provide Continued Fringe Benefits to and for Former Employee Donald C. Wayman through the Date of June 30, 2021, Despite Mr. Wayman's Final Day of Employment Being May 25, 2021

O. Ordinances

1. Ordinance Amending the 2021 Budget For Civic Center Stackable Chairs And Carts

Introduced by Mayor Raymond and presented by Recreation Manager Schab.

**Council Member Costello moved, and Council Member Carlson seconded, to Approve the Ordinance Amending the 2021 Budget For Civic Center Stackable Chairs And Carts. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.**

2. Ordinance Amending the 2021 Budget for the Right of Way Acquisition for Valleyview, South 3rd Street to Southern Avenue Reconstruction

Introduced by Mayor Raymond and presented by Interim City Administrator Henne.

**Council Member Matson moved, and Council Member Wickenhagen seconded, to Approve the Ordinance Amending the 2021 Budget for the Right of Way Acquisition for Valleyview, South 3rd Street to Southern Avenue Reconstruction. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.**

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments

Fire Chief Lange:  
Made report.

Community Development Supervisor Peters:  
Made report.

Recreation Manager Schab:  
Made report.

Police Chief Christman:  
Made report.

City Attorney Case:  
No report.

2. Council Members

Council Member Bell:  
Gave a report on the Law & Justice Center Committee.

Council Member Wickenhagen:  
No report.

Council Member Costello:  
No report.

Council Member Carlson:  
Gave a report on the Selah Downtown Association.

Council Member Matson:  
Gave a report on the Selah Chamber of Commerce.

Council Member Peterson:  
No report.

Council Member Vargas:  
No report.

3. City Administrator

Interim City Administrator Henne:

- Report on the Public Works Department
- Report on USDA loan for Downtown Sewer Reconstruction Project
- Report on Long Term Care Act options
- Extended an invitation to Councilmembers to meet with him

4. Boards **None**

5. Mayor

Mayor Raymond:

- Thanked everyone for their hard work the past couple weeks
- Noted that the next council meeting would be July 13, 2021

R. Executive Session **None**

S. Adjournment

**Council Member Carlson moved, and Council Member Bell seconded, that the meeting be adjourned. By a show of hands, approval was unanimous.**

The meeting adjourned at 6:48 pm.

\_\_\_\_\_  
Sherry Raymond, Mayor

\_\_\_\_\_  
Roger Bell, Council Member

\_\_\_\_\_  
Russell Carlson, Council Member

\_\_\_\_\_  
Jacquie Matson, Council Member

\_\_\_\_\_  
Kevin Wickenhagen, Council Member

\_\_\_\_\_  
Clifford Peterson, Council Member

\_\_\_\_\_  
Suzanne Vargas, Council Member

ATTEST:

\_\_\_\_\_  
Michael Costello, Council Member

\_\_\_\_\_  
Dale E. Novobielski, Clerk/Treasurer



**CITY OF SELAH**  
**CITY COUNCIL**  
**AGENDA ITEM SUMMARY**



Council Meeting	Action Item
7/13/2021	K – 2

**Title:** Claims & Payroll

**From:** Monica Lake, Executive Assistant

**Action Requested:** Approval

**Staff Recommendation:**

Approval of Claims & Payroll as listed on Check Registers.

**Board/Commission Recommendation:** Not Applicable

**Fiscal Impact:** See Check Registers

**Funding Source:** See Check Registers

**Background / Findings & Facts:** See Check Registers

**Recommended Motion:** Motion to Approve the Consent Agenda as read.  
(This item is part of the Consent Agenda)





**CITY OF SELAH**  
**CITY COUNCIL**  
**AGENDA ITEM SUMMARY**



Council Meeting      Informational Item

7/13/2021              M – 1a

**Title:** Informational Only – To update the City Council on the Status of Hiring an Architect to Design a Law and Justice Center

**From:** Joe Henne, Interim City Administrator

**Action Requested:** Approval

**Staff Recommendation:** It is the recommendation of the Law and Justice Center Committee to continue discussions with MACKENZIE, an architectural firm, and negotiate an American Institute of Architects (AIA) contract that will be presented to the City Council.

**Board/Commission Recommendation:** Not Applicable

**Fiscal Impact:** N/A

**Funding Source:** N/A

**Background / Findings & Facts:** The Law and Justice Center Committee published a Request for Statement of Qualifications for Architectural Services this past March. Four statements were received: ARC, Loofburrow Wetch, BORA and MACKENZIE Architects. ARC Architects missed the deadline and Loofburrow Wetch Architects were not selected by the Committee for an interview. BORA & MACKENZIE Architects made presentations to the Committee on July 1, 2021. Based on the presentations, along with questions & answers, the Committee wishes to proceed with MACKENZIE. The Committee will meet with MACKENZIE to negotiate an AIA Contract for the design of the new Law & Justice Center.

**Recommended Action/Motion:** None





**CITY OF SELAH**  
**CITY COUNCIL**  
**AGENDA ITEM SUMMARY**



Council Meeting      Action Item

7/13/2021

N – 1

**Title:** Resolution authorizing the Mayor to sign a WSDOT Local Agency A&E Professional Services Agreement between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Engineering Design services for the Fremont Avenue Sidewalk Improvements Project

**From:** Joe Henne, Public Works Director

**Action Requested:** Approval

**Staff Recommendation:** Staff is requesting the City Council authorize the Mayor to sign a WSDOT Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement between the City of Selah and HLA Engineering and Land Surveying Inc., to provide Engineering Design services for the Fremont Avenue Sidewalk Improvements Project.

**Fiscal Impact:** \$43,526.00

**Funding Source:** 111

**Background / Findings & Facts:** The City of Selah wishes to construct new curb and gutter, sidewalk, ADA ramps, school zone flashing beacons and asphalt repair on Fremont Avenue from North 1st Street to North 4th Street. Please see the attached WSDOT Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement.

**Recommended Action/Motion:** To authorize the Mayor to sign WSDOT Local Agency Agreement between the City of Selah and HLA Engineering and Land Surveying Inc.

RESOLUTION NO. \_\_\_\_\_

**Resolution authorizing the Mayor to sign a WSDOT Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Engineering Design services for the Fremont Avenue Sidewalk Improvements Project**

WHEREAS, The City of Selah wishes to construct new curb and gutter, sidewalk, ADA ramps, school zone flashing beacons and asphalt repair on Fremont Avenue from North 1st Street to North 4th Street; and

WHEREAS, the City of Selah received a Federal State Transportation Block Grant (STBG) for the Fremont Avenue Sidewalk improvement Project: and

WHEREAS, the City of Selah wishes to enter into a WSDOT Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement with the City's Consultant; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be authorized to sign a Local Agency A&E Professional Services Agreement between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Engineering Design Services for the Fremont Avenue Sidewalk Improvements project.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 13th day of July 2021.

\_\_\_\_\_  
Sherry Raymond, Mayor

ATTEST:

\_\_\_\_\_  
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
Rob Case, City Attorney

# Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement

Agreement Number: 21134E

Firm/Organization Legal Name (do not use dba's): HLA Engineering and Land Surveying, Inc.	
Address 2803 River Road, Yakima, WA 98902	Federal Aid Number TAP-4706(002)
UBI Number 600517737	Federal TIN or SSN Number 91-1237188
Execution Date	Completion Date 7/31/2025
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Project Title City of Selah - Fremont Avenue Sidewalk Improvements	
Description of Work Design engineering services for new curb and gutter, sidewalk, ADA ramps, school rapid flashing beacons, and asphalt repair on Fremont Avenue from North 1st Street to North 4th Street.	
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation
Total Amount Authorized: \$43,526.00 Management Reserve Fund: Maximum Amount Payable: \$43,526.00	

## Index of Exhibits

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

Agreement Number: 21134E



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

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

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

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

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

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

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

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

## **III. General Requirements**

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

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

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

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

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

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

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

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

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

**If to AGENCY:**

Name: Joe Henne  
Agency: City of Selah  
Address: 222 Rushmore Road  
City: Selah State: WA Zip: 98942  
Email: [joe.henne@selahwa.gov](mailto:joe.henne@selahwa.gov)  
Phone: 509-698-7365  
Facsimile:

**If to CONSULTANT:**

Name: Michael Battle  
Agency: HLA Engineering and Land Surveying, Inc  
Address: 2803 River Road  
City: Yakima State: WA Zip: 98902  
Email: [mbattle@hlacivil.com](mailto:mbattle@hlacivil.com)  
Phone: 509-966-7000  
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. 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.

Agreement Number: 21134E

## 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, specified in Section II, "Scope of Work". The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)). The estimate in support of the Cost Plus Fixed Fee amount is attached hereto as Exhibits "D" and "E" and by this reference made part of this AGREEMENT.

- A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, indirect cost rate, and direct non-salary costs.
1. Direct (RAW) Labor Costs: The Direct (RAW) Labor Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.
  2. Indirect Cost Rate (ICR) Costs: ICR Costs are those costs, other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the ICR rates shown in attached Exhibits "D" and "E" of this AGREEMENT. Total ICR payment shall be based on Actual Costs. The AGENCY agrees to reimburse the CONSULTANT the actual ICR costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.  
A summary of the CONSULTANT'S cost estimate and the ICR percentage is shown in Exhibits "D" and "E", attached hereto and by this reference made part of this AGREEMENT. The CONSULTANT (prime and all A&E sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an ICR schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the ICR rate for billings received and paid during the fiscal year represented by the ICR schedule. It shall also be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's ICR cost to reflect the actual rate. The ICR schedule will be sent to Email: [ConsultantRates@wsdot.wa.gov](mailto:ConsultantRates@wsdot.wa.gov).  
Failure to supply this information by either the prime CONSULTANT or any of their A&E sub-consultants shall cause the AGENCY to withhold payment of the billed ICR costs until such time as the required information is received and an overhead rate for billing purposes is approved.  
The AGENCY's Project Manager and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual ICR rate, if they so desire.
  3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. (excluding Meals, which are reimbursed at the per diem rates identified in this section) These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and 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 the PROJECT. 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.

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4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in attached Exhibits "D" and "E" of this AGREEMENT. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
  5. Management Reserve Fund (MRF): The AGENCY may desire to establish MRF to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the MRF is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the MRF shall be made in accordance with Section XIII, "Extra Work."
  6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the MRF. The Maximum Total 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.
- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the ICR and calculated fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct (RAW) Labor, Direct Non-Salary, and allowable ICR Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed Direct (RAW) Labor costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, Direct (RAW) Labor rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent, if applicable, 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. 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.

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D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

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

## **VI. Sub-Contracting**

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

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

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

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

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

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

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

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

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

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's

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Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

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

## **VIII. Nondiscrimination**

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

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

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

## **IX. Termination of Agreement**

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

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged and any appropriate fixed fee percentage 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

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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 and appropriate fixed fee percentage in accordance with the termination for other than default clauses listed previously.

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

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

## **X. Changes of Work**

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

## **XI. Disputes**

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

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## **XII. Legal Relations**

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

The CONSULTANT shall defend, indemnify, and hold The State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

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

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

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

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

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

#### Insurance Coverage

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

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

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

Name: Joe Henne  
Agency: City of Selah  
Address: 222 Rushmore Road  
City: Selah State: WA Zip: 98942  
Email: joe.henne@selahwa.gov  
Phone: 509-698-7365  
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 amount 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.

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

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

### **XIII. Extra Work**

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

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

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

### **XV. Federal Review**

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

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

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

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## **XVII. Complete Agreement**

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

## **XVIII. Execution and Acceptance**

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

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

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, State 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.

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

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

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

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

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

## **XX. Records Maintenance**

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

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, 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, scribblings, recordings, visual displays, photographs, minutes of meetings,

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tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

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

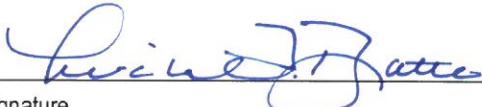
"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.


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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

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

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# Exhibit A Scope of Work

---

Project No. 21134E

1. Provide complete PROJECT management to deliver the PROJECT within mutually determined expectations.
2. Attend meetings with the CITY to address technical aspects of the work related to scope, design, and schedule of the PROJECT. Up to two (2) meetings are anticipated.
3. Prepare environmental documents including: SEPA, APE, and NEPA CE.
4. Perform field investigations necessary to design the identified improvements.
5. Conduct a topographic survey of the PROJECT area as required to complete design, plans, and specifications, including call for utility locates.
6. Prepare preliminary plans and a cost estimate of improvements for review and approval by the CITY.
7. Notify private utilities of pending improvements.
8. Based on approved preliminary engineering plans, perform and present design to CITY at 60% and 90% completion for final coordination.
9. Perform quality control and assurance review of all final documents.
10. Prepare Engineer's cost estimate.
11. Provide final plans and specifications to the CITY in electronic format suitable for printing and use at time of bid advertisement.
12. Prepare all documentation necessary to request CN funding obligation.
13. Complete all federal funding reimbursement requests.
14. Prepare advertisement for bids. Coordinate with CITY on number and location of publications. (all advertisement fees to be paid by CITY.)
15. Distribute contract documents and maintain a planholders list.
16. Answer and supply information as requested by prospective bidders.
17. Prepare and issue addenda, if necessary.
18. Attend and participate in the bid opening and evaluation process.
19. Provide bid tabulation summary.
20. Provide recommendation of award letter.

#### Assumptions:

1. Work does not include design/replacement of existing utilities.
2. All improvements shall be accommodated within existing public right of way/easements.

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**Exhibit B**  
**DBE Participation**

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None.

# **Exhibit C**

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

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

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

Will be on file at Engineer's Office.

B. Roadway Design Files

Will be on file at Engineer's Office.

C. Computer Aided Drafting Files

Will be on file at Engineer' Office.

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

The Agency will review the product following preliminary plan completion and prior to final plan completion.

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

Contract Documents

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

A. Provide full information as to Agency requirements of the project.

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

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

D. Obtain approval of all governmental authorities having jurisdiction over the project, and such approvals and consents from such other individuals or bodies as may be necessary for completion of the project. Pay all review fees and costs associated with obtaining such approvals.

E. Pay for project bid advertisement costs.

F. Execute CN funding obligation package.

G. Process all federal funding reimbursement requests.

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II. Any Other Electronic Files to Be Provided

Will be on file at Engineer's Office

III. Methods to Electronically Exchange Data

Microsoft OneDrive administered through consultant's office, or other FTP site software.

A. Agency Software Suite

N/A

B. Electronic Messaging System

N/A

C. File Transfers Format

N/A

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

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See attached Exhibit D-2.

**Exhibit D-2**  
**Consultant Cost Computations - Summary Sheet**  
**(Lump Sum, Cost Plus Fixed Fee, Cost Per Unit of Work)**

Project: Fremont Avenue Sidewalk Improvements

**Direct Salary Cost (DSC):**

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	<u>Cost (\$)</u>
Licensed Principal Engineer	16	x	\$85.00	= \$1,360.00
Licensed Professional Engineer	64	x	\$43.50	= \$2,784.00
Licensed Principal Surveyor	10	x	\$73.50	= \$735.00
Licensed Professional Surveyor	32	x	\$43.50	= \$1,392.00
Project Engineer I	110	x	\$42.00	= \$4,620.00
CAD Technician	60	x	\$30.00	= \$1,800.00
Surveyor	32	x	\$30.00	= \$960.00
Contract Administrator III	60	x	\$35.00	= \$2,100.00
Administrative/Clerical	16	x	\$27.00	= \$432.00
<b>Total DSC</b>				<b>= \$16,183.00</b>

**Overhead (OH Cost - including Salary Additives):**

OH Rate x DSC    136.71% x     \$16,183.00 =     \$22,123.78

**Fixed Fee (FF):**

FF Rate x DSC    31.70% x     \$16,183.00 =     \$5,130.01

**Reimbursables:**

Mileage - 10 trips @ 10 miles x \$0.56/mile	\$56.00
Printing	<u>\$33.21</u>

**Grand Total** \$43,526.00

Prepared by: Stephen S. Hazzard, PE

Date: 5/25/21



## **Exhibit E**

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

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If no 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.

N/A

## ***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**

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### APPENDIX E

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

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

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

**Exhibit G**  
**Certification Documents**

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of 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
- Exhibit G-4 Certificate of Current Cost or Pricing Data



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

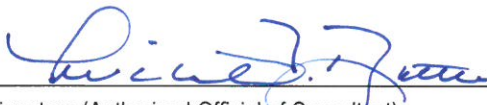
I hereby certify that I am the and duly authorized representative of the firm of  
HLA Engineering and Land Surveying, Inc.  
whose address is  
2803 River Road, Yakima, WA 98902  
and that neither the above firm nor I have:

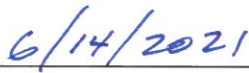
- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining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

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

HLA Engineering and Land Surveying, Inc.

\_\_\_\_\_  
Consultant (Firm Name)

  
\_\_\_\_\_  
Signature (Authorized Official of Consultant)

  
\_\_\_\_\_  
Date

Agreement Number: 21134E

**Exhibit G-1(b) Certification of Agency Official**

I hereby certify that I am the:

Agency Official

Other

of the Local Agency of Selah, WA \_\_\_\_\_, and that the consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Agreement Number: 21134E

**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.

HLA Engineering and Land Surveying, Inc.

\_\_\_\_\_  
Consultant (Firm Name)

  
\_\_\_\_\_  
Signature (Authorized Official of Consultant)

6/14/2021

\_\_\_\_\_  
Date

Agreement Number: 21134E

### **~~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

N/A

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 \_\_\_\_\_ as of \_\_\_\_\_<sup>\*\*</sup> are accurate, complete, and current~~

~~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\*\*\*:

N/A

\*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.

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# Exhibit H

## Liability Insurance Increase

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

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

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

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

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

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

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

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

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

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

# *Exhibit I*

## ***Alleged Consultant Design Error Procedures***

---

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

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

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

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

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

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

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

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

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

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

Agreement Number: 21134E

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

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

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



# **Exhibit J**

## **Consultant Claim Procedures**

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

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

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

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

The consultant's claim must outline the following:

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

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

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

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

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

Agreement Number: 21134E

### **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**

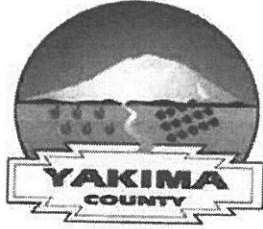
The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, 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.



# Yakima County Roads

Matt Pietrusiewicz P.E. - County Engineer

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901  
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

June 14, 2021

Joe Henne,  
Public Works Director  
City of Selah  
222 South Rushmore Road  
Selah, Washington 98942

Re: Fremont Avenue Sidewalk Improvements  
Federal #TAP-4706(002)  
Consultant Selection

County has reviewed the Consultant Selection Checklist and the Consultant Agreement that provides final PS&E, along with bid and award support services for the Fremont Avenue Sidewalk Improvements project. From the provided documentation, the City has followed Chapter 31 of the LAG Manual on selecting and negotiating a contract with a consultant. The agreement is in the correct format and appears reasonable. The County recommends approval of the agreement.

If you need additional information, please contact me at (509) 574-2237 or [brad.schilperoort@co.yakima.wa.us](mailto:brad.schilperoort@co.yakima.wa.us).

Sincerely,

Brad Schilperoort, P.E.  
Senior Engineer

BS:bs

cc. Randy Giles, PE – Local Programs Engineer, South Central Region (email)  
Stephen Hazzard, PE – HLA (email)

*Yakima County ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding Yakima County's Title VI Program, you may contact the Title VI Coordinator at 509-574-2300.*

*If this letter pertains to a meeting and you need special accommodations, please call us at 509-574-2300 by 10:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll free relay service 1-800-833-6388 and ask the operator to dial 509-574-2300.*



**CITY OF SELAH**  
**CITY COUNCIL**  
**AGENDA ITEM SUMMARY**



Council Meeting      Action Item  
7/13/2021              N – 2

**Title:** Resolution authorizing the Mayor to sign Task Order 2021-08 between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Professional Engineering Services for the Selah School District John Campbell Project Improvements to W Bartlett and N 3rd Street.

**From:** Joe Henne, Public Works Director

**Action Requested:** Approval

**Staff Recommendation:** Staff is requesting the City Council approve the Mayor to sign Task Order 2021-08 between the City of Selah and HLA Engineering and Land Surveying Inc., to provide Professional Engineering Services for the City on the Selah School District John Campbell Project Improvements to W Bartlett and N 3rd Street.

**Board/Commission Recommendation:** Not Applicable

**Fiscal Impact:** \$14,900.00

**Funding Source:** 110

**Background / Findings & Facts:** HLA Engineering and Land Surveying Inc., to provide Professional Engineering Services for the City on the Selah School District John Campbell Project Improvements to W Bartlett and N 3rd Street. Services to include limited Construction Inspection and Material Testing. Please see the attached task order.

**Recommended Motion:** Move to approve Task Order No. 2021-08.



RESOLUTION NO. \_\_\_\_\_

**Resolution authorizing the Mayor to sign Task Order 2021-08 between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Professional Engineering Services for the City of Selah on the Selah School District John Campbell Project Improvements to W Bartlett and N 3rd Street.**

WHEREAS, the City of Selah desires to observe construction of the Selah School District John Campbell improvements within the right of way on W Bartlett Ave and N 3<sup>rd</sup> St.; and

WHEREAS, the City of Selah currently uses HLA Engineering and Land Surveying, Inc. for professional civil engineering and consulting work; and

WHEREAS, the City of Selah wishes to engage HLA via task order for the Selah School District John Campbell Project Improvements to W Bartlett and N 3rd Street; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be authorized to sign Task Order No 2021-08 between the City of Selah and HLA Engineering and Land Surveying, Inc. to provide Professional Engineering Services for the City of Selah on the Selah School District, John Campbell Project Improvements to W Bartlett and N 3rd Street.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 13th day of July 2021.

\_\_\_\_\_  
Sherry Raymond, Mayor

ATTEST:

\_\_\_\_\_  
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
Rob Case, City Attorney

**TASK ORDER NO. 2021-08**

REGARDING AGREEMENT BETWEEN CITY OF SELAH

AND

HLA ENGINEERING AND LAND SURVEYING, INC.

**PROJECT DESCRIPTION:**

**John Campbell Off-Site Improvements (PROJECT)**  
**HLA Project No. 21144C**

The City of Selah (CITY) desires to observe construction of the Selah School District John Campbell project improvements to W. Bartlett Avenue and N. 3<sup>rd</sup> Street.

**SCOPE OF SERVICES:**

At the direction of the CITY, HLA Engineering and Land Surveying, Inc. (HLA), shall provide professional engineering services for the PROJECT. HLA services shall include:

**1.0 Construction Services**

Provide construction observation for subgrade preparation, crushed surfacing aggregate base placement, existing asphalt planing, and placement of new hot mix asphalt for N. 3<sup>rd</sup> Street and W. Bartlett Avenue. N. 3<sup>rd</sup> Street roadway is to be constructed in June/July 2021. W. Bartlett Avenue roadway construction will occur in 2022 (start date TBD).

**2.0 Material Testing Services**

Provide material testing services (via Baer Testing, Inc.) for subgrade compaction, crushed surfacing gradations and compaction, HMA Rice test and compaction, concrete testing for slump and air content, and cylinders for compressive strength for new curb/gutter and sidewalk. HLA will review all material testing reports for compliance with standards.

**3.0 Additional Services**

Additional work requested by the CITY not included in this Task Order, shall be authorized by the CITY and agreed upon by HLA in writing prior to proceeding with the services. HLA will perform the additional services as directed/authorized by the CITY on a time-spent basis at the hourly billing rates included in our General Agreement, plus reimbursement for direct non-salary expenses such as outside consultants.

**4.0 Items to be Furnished and Responsibility of CITY**

The CITY will provide or perform the following:

- 4.1 Provide full information as to CITY requirements of the PROJECT.
- 4.2 Provide construction observation for all work except roadway aggregate base and hot mix asphalt, including roadway demolition, trench excavation, installation of water main and water services, curb/gutter, sidewalk, and storm drainage improvements.
- 4.3 Schedule materials testing for work observed by City forces.

**TIME OF PERFORMANCE:**

The services called for under this Task Order shall be completed as follows:

**1.0 Construction Services**

N. 3<sup>rd</sup> Street roadway construction beginning in June/July 2021, six (6) partial working days (estimated).

W. Bartlett Avenue roadway construction in 2022 (dates TBD), two (2) whole working days (estimated).

**2.0 Material Testing Services**

As required, see attached proposal from Baer Testing, Inc., dated May 18, 2021.

**3.0 Additional Services**

Time of completion for work directed by the CITY under additional services shall be negotiated and mutually agreed upon at the time service is requested by the CITY.

**FEE FOR SERVICE:**

For the services furnished by HLA as described under this Task Order, the CITY agrees to pay HLA the fees as set forth herein. The amounts listed below may be revised only by written agreement of both parties.

**1.0 Construction Services**

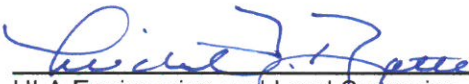
All work to provide Construction Services shall be completed on a time-spent basis at the normal hourly billing rates in affect at the time of service, for the estimated maximum fee of \$8,000.

**2.0 Material Testing Services**

All work to provide Material Testing Services shall be completed per the attached proposal from Baer Testing, Inc. (+10% markup), \$5,973.00, and on a time-spent basis at the normal hourly HLA billing rates in affect at the time of service for review of material testing reports, \$927, for an estimated maximum total fee of \$6,900.

**3.0 Additional Services**

Additional work requested by the CITY not included in this Task Order shall be authorized by the CITY and agreed upon by HLA in writing prior to proceeding with the services. HLA will perform the additional services as directed/authorized by the CITY on a time-spent basis at the hourly billing rates included in our General Agreement, plus reimbursement for direct non-salary expenses such as printing expenses, vehicle mileage, and outside consultants.

**Proposed:**   
\_\_\_\_\_  
HLA Engineering and Land Surveying, Inc.  
Michael T. Battle, PE, President

6/9/2021  
\_\_\_\_\_  
Date

**Approved:** \_\_\_\_\_  
City of Selah  
Sherry Raymond, Mayor

\_\_\_\_\_  
Date





## Statement of Acknowledgement

### **Baer Testing, Inc's services are provided with the understanding of the following:**

We are a Professional Service provider. Our services are provided as time and materials and are not bound to lump sum or estimated budget amounts. Contractor scheduling, cancellations, failing tests, standby time, etc. are out of our control, invoicing will reflect the above unit rates.

A 2 hour minimum and equipment charge applies to all projects. A 4 hour minimum applies to all Welding Inspections and any time over 4 hours will incur an 8 hour minimum.

Office hours are 8:00 AM to 5:00 PM Monday through Friday. Any inspections or travel time outside of those times or in excess of 8 hours will be charged at 1.5 x hourly rate. Baer Testing, Inc. observes the following Holidays: New Year's Day, Easter Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Day after Thanksgiving, Christmas Eve, and Christmas Day. Holiday work will be charged at 3 x the hourly rate.

A short notice charge of 1.5 x the hourly rate will apply to projects scheduled after 3pm the previous day. Rush laboratory testing (within 24 hours) will be charged at 2 x the unit rate.

Attendance of preconstruction meetings, safety meetings, etc. will be charged at the above unit rates for Inspectors, Testing Manager, or Professional Engineer depending on who is requested to attend.

Unit rates do not include costs for picking up, transporting, or processing specimens. A 2 hour minimum and equipment charge will apply to sample pickup and transportation unless a Baer Testing, Inc. representative is already on site. Sample processing will be billed at the above unit rates.

Compressive strength specimens MUST be picked up within 48 hours. This may result in weekend sample pick up and overtime charges. Deviation of the test standard will invalidate results.

Baer Testing, Inc. is a professional service provider with due on receipt billing terms. All test results and reports are provided to our Clients as an extension of credit for work performed. All Clients with invoices past due 30 days will cease to receive daily test results and reports until payment is received. Extended terms may be arranged on a project by project basis prior to the start of work. These arrangements can only be made by contacting our accounts receivable department.

A finance fee of 1.5% will be made on all invoices past due per month.

Payment by check or cash is preferred. Clients will incur a 6% service fee for all credit card payments.

**All pages of this proposal must be included in any contract, work order, or purchase order agreements.**

**Please sign and return.**

**Baer Testing, Inc.:**

5/18/2021

**Client:**

X



Steve Baer  
General Manager, sbaer@baertesting.com  
Signed by: Steve Baer





**CITY OF SELAH**  
***CITY COUNCIL***  
***AGENDA ITEM SUMMARY***



Council Meeting      Action Item

7/13/2021

N – 3

**Title:** Resolution authorizing the Mayor to sign a Contract between the City of Selah and BCV Inc., of Wenatchee, Washington to provide Crack Sealing on Crusher Canyon Road and West Fremont Avenue.

**From:** Joe Henne, Public Works Director

**Action Requested:** Approval

**Staff Recommendation:** Staff is requesting the City Council authorize the Mayor to sign a Contract between the City of Selah and BCV, Inc., of Wenatchee, Washington, to provide Construction Services for the 2021 Crack Sealing Project.

**Fiscal Impact:** \$ \$7,450.00

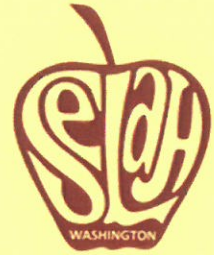
**Funding Source:** 111

**Background / Findings & Facts:** The City of Selah wishes to apply crack sealer to approximately 9,900 Linear feet of cracks on Crusher Canyon Road and West Fremont Avenue. The project includes cleaning, crack sealing, and temporary traffic control. BCV, Inc. has submitted a bid that is 70% lower than budgeted. They agreed to allow the City to add additional footage of cracks at the bid unit prices, which we will do, and not to exceed \$23,000 in total project cost. Please see the attached HLA letter to award the project to BCV.

**Recommended Action/Motion:** To authorize the Mayor to sign a Contract between the City of Selah and BCV, Inc. for crack sealing.



**CITY OF SELAH**  
***CITY COUNCIL***  
***AGENDA ITEM SUMMARY***



**Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)**

Date:

Action Taken:

6/24/2021

Bid opening and Recommendation of Award

6/9/2021

Advertisement for Bids

RESOLUTION NO. \_\_\_\_\_

**Resolution authorizing the Mayor to sign a Contract between the City of Selah and BCV Inc., of Wenatchee, Washington to provide Construction Services for the 2021 Crack Sealing Project**

WHEREAS, The City of Selah wishes to apply approximately 9,900 linear feet of asphalt crack sealer on Crusher Canyon Road and W Fremont Avenue, including cleaning, crack sealing and temporary traffic control; and

WHEREAS, after seeking bids the City wishes to award the construction contract to the low bidder, BCV Inc., of Wenatchee, Washington; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor be authorized to sign a Contract between the City of Selah and BCV Inc., to provide Construction Services for the 2021 Crack Sealing Project.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 13th day of July 2021.

\_\_\_\_\_  
Sherry Raymond, Mayor

ATTEST:

\_\_\_\_\_  
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
Rob Case, City Attorney





6/24/2021

City of Selah  
115 W. Naches Avenue  
Selah, WA 98942

Attn: Mr. Joe Henne

Re: City of Selah  
2021 CRACK SEALING  
HLA Project No.: 21006G  
Recommendation of Award

Dear Joe:

The bid opening for the above referenced project was held at City Hall at 115 W. Naches Avenue on Thursday, June 24, 2021. A total of four (4) bids were received with the low bid of \$7,450.00, being offered by BCV, Inc., of Wenatchee, Washington. This low bid is approximately seventy (70%) percent below the Engineer's Estimate of \$25,325.00.

We have reviewed and checked the bid proposals of all bidders and recommend the City of Selah award a construction contract to BCV, Inc., in the amount of \$7,450.00. Please send us a copy of the Selah Council minutes authorizing award of this project.

Enclosed please find the project Bid Summary for your review. Please advise if we may answer any questions or provide additional information.

Very truly yours,



A handwritten signature in blue ink that reads "Terry D. Alapeteri".

Terry D. Alapeteri, PE

TDA/rme

Enclosures

Copy: Rachelle Evans, HLA

BID SUMMARY						Bidder #1		Bidder #2		Bidder #3									
Owner: City of Selah						BCV, Inc.		Stripe Rite Inc.		Central Paving, LLC									
Project: 2021 CRACK SEALING						P.O. Box 2898		2200 Industry Ln		1410 W Dolarway Road									
HLA Project No.: 21006G						Wenatchee, WA 98807		Yakima, WA 98901		Ellensburg, WA 98926									
Bid Opening Date: June 24, 2021																			
ITEM NO.	DESCRIPTION	QTY.	UNIT	ENGINEER'S ESTIMATE		Unit Price	Amount	Unit Price	Amount	Unit Price	Amount								
				Unit Price	Amount														
1	Mobilization	1	LS	\$ 4,000.00	\$ 4,000.00	\$ 500.00	\$ 500.00	\$ 1,250.00	\$ 1,250.00	\$ 10,000.00	\$ 10,000.00								
2	Project Temporary Traffic Control	1	LS	\$ 4,000.00	\$ 4,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,825.00	\$ 2,825.00	\$ 5,000.00	\$ 5,000.00								
3	Crack Sealing	9,900	LF	\$ 1.75	\$ 17,325.00	\$ 0.50	\$ 4,950.00	\$ 1.15	\$ 11,385.00	\$ 1.25	\$ 12,375.00								
<b>BID TOTAL</b>					<b>\$ 25,325.00</b>		<b>\$ 7,450.00</b>		<b>\$ 15,460.00</b>		<b>\$ 27,375.00</b>								
ENGINEER'S REPORT						ADDITIONAL BID TOTALS													
Competitive bides were opened June 24, 2021. All bids have been reviewed by this office. We recommend the contract be awarded to: BCV, Inc.						<b>BIDDER</b>													
						Northwest Striping & Sealing NON-RESPONSIVE						<b>BID TOTAL</b>							
 Project Engineer: Terry D. Alapeteri, PE												\$ 18,954.00							
*Bid results can be found at: <a href="http://hlaivil.com">hlaivil.com</a>						*Highlighted amounts have been corrected.													





**CITY OF SELAH**  
**CITY COUNCIL**  
**AGENDA ITEM SUMMARY**



Council Meeting      Action Item  
7/13/2021              N – 4

**Title:** Resolution Confirming the Mayor’s Appointment of Joe Henne as City Administrator With a Retroactive Effective Date of July 1, 2021 (following Mr. Henne having briefly served as acting/interim City Administrator since late May) and Reciting Certain Aspects of Mr. Henne’s Compensation and Benefits

**From:** Rob Case, City Attorney (on directions from the Mayor)

**Action Requested:** Approval

**Staff Recommendation:** That the City Council vote to confirm the Mayor’s appointment of Mr. Henne as City Administrator.

**Fiscal Impact:** Annual gross salary of \$119,568.00 (which equates to \$9,964.00 gross per month). (By comparison, the immediately-preceding City Administrator – Donald Wayman – was earning a final gross annual salary of \$140,316.00). Mr. Henne will be eligible for annual cost-of-living adjustments to his salary, pursuant to paragraph 4.2(d) of the City of Selah Personnel Rules and Regulations dated January 1, 2011. He will also be eligible for longevity incentive pay, at the applicable rate of seven percent (7.00%) of gross non-overtime salary. Mr. Henne will be granted use of a City pickup truck, which he may use as a take-home vehicle. He will retain all previously-accrued leave that he amassed during his time working at Public Works, such as sick leave and vacation leave. He will accrue additional sick leave on the same schedule as other City employees. He will accrue twenty-five (25) days of vacation leave per calendar year.

**Funding Source:** 001 at 41%; 103 at 5%; 119 at 14%; 415 at 10%; & 420 at 15%





**CITY OF SELAH**  
***CITY COUNCIL***  
***AGENDA ITEM SUMMARY***



**Background / Findings & Facts:** Donald Wayman was employed by the City as its City Administrator until May 25, 2021. The Mayor terminated Mr. Wayman's effective May 25, 2021. Subsequently, the Mayor asked Joe Henne – who had long been employed by the City as its Public Works Director – to act as interim (a/k/a acting) City Administrator. Mr. Henne agreed to do so and has been doing so. The Mayor is satisfied with Mr. Henne's performance and has decided to appoint him to the position of City Administrator on a permanent basis (i.e., no longer an interim/acting basis). Selah Municipal Code section 1.10.015(a) provides, in relevant part, that the "office of city administrator . . . shall be filled by appointment of the mayor, subject to confirmation by a majority of the entire city council." Such section further provides that "[t]he terms of employment of the city administrator may be specified by a [written] contract . . . ." However, neither the Mayor nor Mr. Henne are requesting that a written contract be put in place. There will be no required severance payment should Mr. Henne's employment be subsequently terminated. Mr. Henne will be an exempt employee who is not eligible for any overtime pay. He will also be an at-will employee whose employment may be terminated without any necessary finding of cause/misconduct and without any minimum advance notice.

**Recommended Motion:** I move to approve the Resolution in the form presented.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JOE HENNE AS CITY ADMINISTRATOR WITH A RETROACTIVE EFFECTIVE DATE OF JULY 1, 2021 (FOLLOWING MR. HENNE HAVING BRIEFLY SERVED AS ACTING/INTERIM CITY ADMINISTRATOR SINCE LATE MAY) AND RECITING CERTAIN ASPECTS OF MR. HENNE'S COMPENSATION AND BENEFITS

WHEREAS, the Mayor terminated the employment of City Administrator Donald C. Wayman effective May 25, 2021; and

WHEREAS, the Mayor subsequently asked Joe Henne – who had long been employed by the City as its Public Works Director – to act as interim (a/k/a acting) City Administrator, and Mr. Henne agreed to do so and has been doing so; and

WHEREAS, the Mayor is satisfied with Mr. Henne's performance and has decided to appoint him to the position of City Administrator on a permanent basis (i.e., no longer an interim/acting basis) with a retroactive effective date of July 1, 2021; and

WHEREAS, Selah Municipal Code section 1.10.015(a) provides, in relevant part, that the "office of city administrator . . . shall be filled by appointment of the mayor, subject to confirmation by a majority of the entire city council" and further that "[t]he terms of employment of the city administrator may be specified by a [written] contract"; and

WHEREAS, neither the Mayor nor Mr. Henne are requesting that a written contract be put in place and instead choosing to recite certain aspects of Mr. Henne's forthcoming compensation and benefits within this Resolution; and

WHEREAS, if the City Council affirmatively approves this Resolution, Mr. Henne will be an exempt employee who is not eligible for overtime pay and also an at-will employee whose employment may be terminated without any necessary finding of cause/misconduct and without any minimum advance notice; and

WHEREAS, if the City Council affirmatively approves this Resolution, Mr. Henne's initial annual gross salary as City Administrator will be \$119,568.00 (which equates to \$9,964.00 gross per month), Mr. Henne will be eligible for annual cost-of-living adjustments to his salary pursuant to paragraph 4.2(d) of the City of Selah Personnel Rules and Regulations dated January 1, 2011 (or pursuant to any updated or replacement version thereof), and Mr. Henne will also be eligible for longevity incentive pay at the applicable rate of seven percent (7.00%) of gross non-overtime pay; and

WHEREAS, Mr. Henne will retain all previously-accrued leave that he amassed during his time working at Public Works such as sick leave and vacation leave, and further – if the City Council affirmatively approves this Resolution – Mr. Henne will be immediately granted five (5) days of

additional accrued vacation leave and thereafter he will accrue leave on the same schedule as other City employees; and

WHEREAS, if the City Council approves this Resolution, Mr. Henne will be granted the use of a City pickup truck, which he may use as a take-home vehicle;

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

1. The Mayor's appointment of Joe Henne to the position of City Administrator on a permanent basis is confirmed. Mr. Henne shall be and is an exempt employee who is not eligible for any overtime pay and also an at-will employee whose employment may be terminated without any necessary finding of cause/misconduct and without any minimum advance notice.
2. Mr. Henne's appointment shall have a retroactive effective date of July 1, 2021.
3. Mr. Henne's initial annual gross salary shall be \$119,568.00.
4. Mr. Henne shall be eligible for annual cost-of-living adjustments to his salary, pursuant to paragraph 4.2(d) of the City of Selah Personnel Rules and Regulations dated January 1, 2011 (or pursuant to any updated or replacement version thereof).
5. Mr. Henne shall also be eligible for longevity incentive pay, at the applicable rate of seven percent (7.00%) of gross non-overtime pay.
6. Mr. Henne shall be granted the use of a City pickup truck, which he may use as a take-home vehicle.
7. Mr. Henne shall retain all previously-accrued leave that he amassed during his time working at Public Works, such as sick leave and vacation leave. He shall also be immediately granted five (5) days of additional accrued vacation and he will continue to accrue additional leave on the same schedule as other City employees.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 13<sup>th</sup> day of July, 2021.

\_\_\_\_\_  
Sherry Raymond, Mayor

ATTEST:

Dale E. Novobielski Clerk/Treasurer

\_\_\_\_\_  
APPROVED AS TO FORM:

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Rob Case, City Attorney