



Transportation Improvement Board (TIB)
Consultant Agreement

**III
GENERAL REQUIREMENTS**

All aspects of coordination of the work of this AGREEMENT, with outside agencies, groups or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups or individuals shall be coordinated through the AGENCY.

The CONSULTANT shall attend coordination, progress and presentation meetings with the AGENCY or such Federal, Community, State, 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 number of hours or days notice required shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit B attached hereto and made part of this AGREEMENT. The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, that will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated. Goals for Disadvantaged Business Enterprises (DBE), Minority Business Enterprises (MBE), and Women-owned Business Enterprises (WBE) if required shall be shown in the heading of this Agreement.

The original copies of all reports, PS&E, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All designs, drawings, specifications, documents, and other work products prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for the PROJECT and are property of the AGENCY. Reuse by the AGENCY or by others acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability of legal exposure to the CONSULTANT.

**IV
TIME FOR BEGINNING AND COMPLETION**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT under completion date.

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

**V
PAYMENT**

The CONSULTANT shall be paid by the AGENCY for completed work and services rendered under this AGREEMENT as provided in Exhibit C attached hereto, and by this reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, Scope of Work.

**VI
SUBCONTRACTING**

The AGENCY permits subcontracts for those items of work as shown in Exhibit G to this Agreement. Compensation for this subconsultant work shall be based on the cost factors shown on Exhibit G, attached hereto and by this reference made a part of this AGREEMENT.

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

All reimbursable direct labor, overhead, direct non-salary costs and fixed fee costs for the subconsultant shall be substantiated in the same manner as outlined in Section V. All subcontracts exceeding \$10,000 in cost shall contain all applicable provisions of this AGREEMENT.

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

**VII
EMPLOYMENT**

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

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

The CONSULTANT shall not engage, on a full or part time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the STATE, or the AGENCY, except regularly retired employees, without written consent of the public employer of such person.

**VIII
NONDISCRIMINATION**

The CONSULTANT agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard to, but not limited to the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, layoffs or terminations, rates of pay or other forms of compensation, selection for training, rendition of services. The CONSULTANT understands and agrees that if it violates this provision, this AGREEMENT may be terminated by the AGENCY and further that the CONSULTANT shall be barred from performing any services for the AGENCY now or in the future unless a showing is made satisfactory to the AGENCY that discriminatory practices have terminated and that recurrence of such action is unlikely.

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

- A. **COMPLIANCE WITH REGULATIONS:** The CONSULTANT shall comply with the Regulations relative to nondiscrimination in the same manner as in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this AGREEMENT.



Consultant Agreement

IX TERMINATION OF AGREEMENT

- B. **NONDISCRIMINATION:** The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, creed, color, sex, age, marital status, national origin or handicap except for a bona fide occupational qualification in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix II of the Regulations.
- C. **SOLICITATIONS FOR SUBCONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, creed, color, sex, age, marital status, national origin and handicap.
- D. **INFORMATION AND REPORTS:** The CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY or TIB to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the AGENCY, or the TIB as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, the AGENCY shall impose such sanctions as it or the Transportation Improvement Board may determine to be appropriate, including, but not limited to:
 1. Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or
 2. Cancellation, termination or suspension of the AGREEMENT, in whole or in part.
- F. **INCORPORATION OF PROVISIONS:** The CONSULTANT shall include the provisions of paragraphs (A) through (G) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subconsultant or procurement as the AGENCY or the Transportation Improvement Board may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY to enter into such litigation to protect the interests of the AGENCY, and in addition, the CONSULTANT may request the TIB to enter into such litigation to protect the interests of the TIB.
- G. **UNFAIR EMPLOYMENT PRACTICES:** The CONSULTANT shall comply with RCW 49.60.180 prohibiting unfair employment practices and the Executive Orders numbered E.O.70-01 and E.O.66-03 of the Governor of the State of Washington.

The right is reserved by the AGENCY to terminate this AGREEMENT at any time upon ten days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT as shown in Exhibit F for the type of AGREEMENT used.

No payment shall be made for any work completed after ten days following receipt by the CONSULTANT of the Notice of Termination. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

In the event the services of the CONSULTANT are terminated by the AGENCY for fault on the part of the CONSULTANT, the above formula for payment shall not apply. In such an event, the amount to be paid shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the AGENCY at the time of termination; the cost to the AGENCY of employing another firm to complete the work required and the time which maybe required to do so, and other factors which affect the value to the AGENCY of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made using the formula set forth in the previous paragraph.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without it or its employees fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY in accordance with the provision of this AGREEMENT.

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

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

In the event this AGREEMENT is terminated prior to completion, the original copies of all reports and other data, PS&E materials furnished to the CONSULTANT by the AGENCY and documents prepared by the CONSULTANT prior to said termination, shall become and remain the property of the AGENCY and may be used by it without restriction. Such unrestricted use, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

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



**X
 CHANGES OF WORK**

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

**XI
 DISPUTES**

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the AGENCY shall be referred for determination to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT, provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to the scope of judicial review provided under Washington Case Law.

**XII
 VENUE, APPLICABLE LAW AND
 PERSONAL JURISDICTION**

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior Court of the State of Washington, situated in the county the AGENCY is located in. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county the AGENCY is located in.

**XIII
 LEGAL RELATIONS AND INSURANCE**

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

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

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees against the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The CONSULTANT recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation.

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

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

Insurance Coverage

A. Worker's compensation and employer's liability insurance as required by the STATE.

B. General commercial liability insurance in an amount not less than a single limit of one million and 00/100 Dollars (\$1,000,000.00) for bodily injury, including death and property damage per occurrence.

Excepting the Worker's Compensation insurance and any professional liability insurance secured by the CONSULTANT, the AGENCY will be named on all certificates of insurance as an additional insured. 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 14 days of the execution of this AGREEMENT to the AGENCY. No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY shall be limited to the amount payable under this AGREEMENT or one million dollars, whichever is the greater unless modified by Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

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

**XIV
 EXTRA WORK**

A. The AGENCY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.

B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the AGENCY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.

C. The CONSULTANT must submit any proposal for adjustment (hereafter referred to as proposal) under this clause within 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 proposal submitted before final payment of the AGREEMENT.



Transportation Improvement Board (TIB)
Consultant Agreement

**XVII
CERTIFICATION OF THE
CONSULTANT AND THE AGENCY**

Attached hereto as Exhibit A-1, are the Certifications of the Consultant and the Agency.

**XVIII
COMPLETE AGREEMENT**

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

**XIX
EXECUTION AND ACCEPTANCE**

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

- D. Failure to agree to any adjustment shall be a dispute under the disputes clause. However nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and condition of paragraphs (a) and (b) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

**XV
ENDORSEMENT OF PLANS**

The CONSULTANT shall place his endorsement on all plans, estimates or any other engineering data furnished by him.

**XVI
TIB AND AGENCY REVIEW**

The AGENCY and TIB shall have the right to participate in the review or examination of the work in progress.

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


By		By	_____
	Michael B. Johnson, P.E., President		Mayor
Consultant	_____	City of	_____
	Gray & Osborne, Inc.		Okanogan



EXHIBIT A-1 Certification of Consultant

Project No. 6-E-881(011)-1	City of Okanogan
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I hereby certify that I am Michael B. Johnson, P.E. a duly authorized representative of the firm of Gray & Osborne, Inc. whose address is 1130 Rainier Avenue South, Suite 300, Seattle, Washington 98144 and that neither I nor the above firm I here represent has:

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

I further certify that the firm I hereby represent is authorized to do business in the State of Washington and that the firm is in full compliance with requirements of the Board of Professional Registration.

I acknowledge that this certificate is to be available to the Transportation Improvement Board (TIB), in connection with this contract involving participation of TIB funds and is subject to applicable State and Federal laws, both criminal and civil.

2/28/24
Date


Signature

Certification of Agency Official

I hereby certify that I am the AGENCY Official of the City of Okanogan, Washington and that the above consulting firm or his/her representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract to:

- (a) Employ or retain, or agree to employ or 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 here expressly stated (if any).

I acknowledge that this certificate is to be available to the TIB, in connection with this contract involving participation of TIB funds and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature-Mayor



EXHIBIT B-1 Scope of Work

Project No.
 6-E-881(011)-1

Describe the Scope of Work

The City of Okanogan, with financial assistance (grant) from the Washington State Transportation Improvement Board (TIB), desires to improve 3rd Avenue from Irene Street to Greta Street (approximately 1,575 feet). The proposed project location is shown below.



In the future, the City plans to improve 3rd Avenue from Irene Street to Oak Street in two subsequent phases of work.

Unless otherwise directed and approved by the City and the TIB, the project will be designed in conformance with the TIB grant applications (FY 2025 projects). This scope of work includes the following assumptions:

Roadway Geometry: The roadway will be reconstructed with 11-foot wide travel lanes and rolled curb and gutter on each side. A 5-foot wide sidewalk will be placed on one side of the street.

Roadway Section/Pavement Thickness: The existing paved roadway will either be reconstructed with crushed surfacing materials or pulverized and treated with cement, followed by an overlay with HMA. The section will be determined in a geotechnical report. It is anticipated that the presence of cobbles may prevent the utilization of pulverization and cement-treated base.

Stormwater: The project will include installation of curb, gutter, and storm drainage facilities. Stormwater will be infiltrated onsite with pretreatment where required.

Cultural Resource Survey: Costs for a historical and cultural survey have been included in this scope of work. It is anticipated that no historic properties will be affected.

Permits: It is anticipated that a SEPA checklist will not be required as part of this project. It is anticipated that an Ecology Construction Stormwater Erosivity Waiver will be required.

Topographic Survey: It is assumed that a limited topographic survey of the project site will be completed. It is assumed that the footprint of the improvements will lie entirely within the existing right-of-way and will not require right of way acquisition.



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Utilities: The water main and sewer main will be replaced as part of this project. Funding for this work has been provided by the Public Works Board. The design will be completed under a separate contract (by Gray & Osborne, Inc.) and the construction of the utilities will be tracked in separate schedules of work.

Task 1 — Project Management

- A. Provide overall project management services including:
 - 1. Project-staff management;
 - 2. Implementation of quality control program; and
 - 3. Management of project budget and schedule.

Task 2 — Community and Agency Coordination

- A. Participate at two project meetings with City staff to review project, project concerns, status of deliverables, budget, critical path items, any new project concerns, etc., during the course of the project.

Task 3 — Quality Assurance/Quality Control Meetings

- A. Conduct three in—house quality assurance/quality control (QA/QC) meetings during the course of the project. The meetings will take place at approximately 30, 50 and 90 percent completion status. The meetings will include review by qualified senior staff members, key design team members, and Agency staff (as desired). Provide draft documents to funding agency and incorporate funding agency comments.
- B. Incorporate pertinent recommendations and suggestions into bid/construction documents regarding QA/QC.

Task 4 — Project Funding Agency Coordination

- A. The Engineer shall coordinate their work (as applicable) as authorized by the City with the City's funding agency (TIB) and assist the City in preparing project forms, on-line reimbursement requests, and other required paperwork.

Task 5 – Geotechnical Analysis (Subconsultant)

- A. Subcontract and coordinate geotechnical work with a qualified and licensed geotechnical firm.
- B. Review and comment on subconsultant submittals.
- C. Provide these additional services via a geotechnical subconsultant.
 - 1. **Site Reconnaissance/Subsurface Exploration** – Subconsultant will perform a site reconnaissance to observe soil conditions and existing pavement thickness. Subconsultant will observe test holes to be excavated by the City within the roadway area. Up to eight test pits will be excavated for this project. The test pits will be excavated to a maximum depth of about 10 feet. The existing soil conditions will be documented. The geotechnical investigation will cover all three phases of the proposed improvements, from Oak Street to Greta Street.

The City will excavate, backfill, and compact the test holes, provide utility clearance and traffic control (if needed).
 - 2. **Laboratory Tests** – Select soil samples for moisture content testing, grain size analysis, and cation exchange capacity. The test results will aid in soil classification, and will be used to determine the engineering properties of the soil. The grain size analyses will also be used to evaluate the infiltration potential of the soils based on the methodology outlined in the current Ecology stormwater design manual. The cation exchange capacity tests results will be used to evaluate the treatment potential of the site soils. No in situ infiltration tests are included in this scope of work.



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3. **Report** – Subconsultant will prepare a report summarizing the findings, including a site map showing locations of test borings, summary of test pits and description of subsurface conditions, and recommendations for pavement thickness, suitability of site soils for infiltration and treatment, and estimated infiltration rates based on grain size analysis, and general earthwork recommendations.
4. **Post Report Consultation** – Subconsultant will provide post-report consultations on an as needed basis.

Task 6 - Cultural Resource Survey (Subconsultant)

- A. Subcontract and coordinate Cultural Resource work with a qualified and licensed Archaeological firm.
- B. Review and comment on subconsultant submittals.
- C. Provide these additional services via an archaeological subconsultant.
 1. Identify any cultural resources which may be adversely affected by the project. The cultural investigation will cover all three phases of the proposed improvements, from Oak Street to Greta Street.
 2. Conduct the cultural resource survey in accordance with Washington State Law.
 3. Provide background research, field investigation of project area, and research to identify potential traditional cultural properties.
 4. Provide summary of findings in a cultural resources project report.
- D. Submit report to DAHP for review and concurrence to conform with Washington State Governor's Executive Order 21-02.
- E. Gray & Osborne will assist the City in preparing a letter to interested tribes that will describe the project, and serve as formal consultation. The letter will be sent out by the City.

Task 7 — Right-of-Way and Topographical Survey

- A. Establish vertical and horizontal (right-of-way) control for survey and mapping within project corridor.
- B. Acquire records of survey, plat maps, assessor maps, etc., as required for establishing right-of-way. Identify right-of-way (centerline and edges).
- C. Acquire limited topographical survey of site (within and adjacent to project corridor) to include referencing surface grades, utility markings, pavement edges, curb and gutter, sidewalk, sidewalk curb ramps, driveways, utility structures, including utility poles, hydrants, valves, sanitary, and storm facilities, and water facilities in sufficient detail to support design of the project. The project site and surrounding area may also be supplemented with our survey drone to provide a high resolution aerial image and additional topographic data.
- D. Acquire off-site survey at properties abutting project corridor, intersecting streets, and all driveways to facilitate incorporation of ingress/egress corridors into design and in sufficient details to identify impacts and provide adequate mitigation to adjacent properties. Extend topography to back of curb/sidewalk, where determined to be necessary by the Engineer. Note: This work assumes right of access will be granted by property owners for this work if needed.
- E. Incorporate all electronic files (produced by survey) and create a base map of the project corridor, adjacent parcel lines, and existing utilities of record and/or surveyed utilities.



Task 8 — Utility Data Acquisition and Coordination

- A. Coordinate One-Call utility locates.
- B. Solicit record drawings and other utility documentation as may be available from existing utilities within the project area.
- C. Review data provided by utility companies and incorporate into design products as may be applicable.
- D. Coordinate with utility owners for facility relocation or upgrades, if required.

Task 9 — Preliminary Design

- A. Prepare preliminary plans (30 percent design level) in City approved format. The Plans will utilize Washington State Department of Transportation (WSDOT) and City design standards, as applicable. Provide Plans to TIB for review and comment.
- B. Prepare specifications in City-approved format, to also include proposal, contract, bonds, and insurance documents/requirements and related documentation. The Specifications will be prepared with reference to the current WSDOT Standard Specifications for Road, Bridge, and Municipal Construction and City design standards, as applicable.
- C. Prepare preliminary plans, drawings, special details, etc., of all motorized and non-motorized facilities including road improvements, sidewalk curb ramps, road striping, and related facilities at 50 and 90 percent level of design, and in City—approved format to include updated Engineer's construction cost estimate(s). Submit (two copies) of plan sets and specifications (including updated cost estimates) to City for review and comment at 50 and 90 percent. Incorporate applicable City comments. Format of plan sets shall be similar to other transportation and TIB funded products the Engineer has prepared for the City and modeled after the current Standard Specifications.
- D. Submit 90 percent level plans to TIB for review/approval. Incorporate any review comments received into the final design.

Task 10 – Temporary Construction and Right-of-Way Documentation

- A. Identify areas on adjacent private property where temporary construction permits need to be acquired to facilitate construction. This may include small, parallel, and adjacent strips of land or driveway areas needed to be reconstructed and incorporated into project documents.
- B. Prepare generic temporary construction permits for City distribution and acquisition as may be required.

Note: Right-of-way acquisition is not anticipated nor included in our scope of work. If such is required, it will be negotiated as an extra.

Task 11 — Final Design Plans and Specifications

- A. Prepare final (100%) project plans, specifications, and cost estimates to include evaluation and/or incorporation of all previous and pertinent City, and/or funding agency review comments.
- B. Submit final plans, specifications, engineer's cost estimate (construction), and TIB Bid Authorization form to the City and TIB and solicit authorization to bid the project from both the City and TIB.

Task 12 — Bid and Award Services

- A. Prepare bid advertisement and distribute to up to two newspapers (Daily Journal of Commerce as well as City's newspaper of record). Our fees do not include cost of publication of advertisements.



Consultant Agreement

- B. Prepare and post electronic bid documents (PDF format) to Gray & Osborne's Bid Document Distribution System website. Maintain bidders list.
- C. Answer bid inquiries during bid phase, to include providing written clarification as may be required.
- D. Prepare and distribute any bid addenda as required.
- E. Attend bid opening, review bids tendered, check references of responsible, qualified low bidder, prepare and distribute bid summary, and prepare and transmit Engineer's "Letter of Recommendation for Award." Coordinate with City and TIB.

Construction Engineering Services

The Engineer shall provide Construction Engineering Services as may be further desired by the City and at the City's option. If the City elects to exercise this option, the Engineer shall prepare a scope and fee for this additional work for the City's review and approval. Since the extent of this work cannot be reasonably determined at this time, it will be prepared at the completion of the design phase as a contract supplement. The Engineer will also be entitled to subcontract work to a qualified firm as further approved by the City.

Documents to be Furnished by the Consultant

- One electronic copy of the Project Specifications and Construction Drawings in Portable Document Format (PDF).



EXHIBIT C-2 Payment (Cost Plus Fixed Fee)

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

A. Actual Costs

Payment for all consulting services for this project shall be on the basis of the CONSULTANT's actual cost plus a fixed fee. The actual cost shall include direct salary cost, overhead, and direct nonsalary cost.

1. Direct Salary Costs

The direct salary cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT.

2. Overhead Costs

Overhead costs are those costs other than direct costs which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the rate shown in the heading of this AGREEMENT, under "Overhead Progress Payment Rate." Total overhead payment shall be based on the method shown in the heading of the AGREEMENT. The three options are explained as follows:

- a. **Actual Cost:** If this method is indicated in the heading of the AGREEMENT, the AGENCY agrees to reimburse the CONSULTANT the actual overhead costs verified by audit, up to maximum amount payable, authorized under this AGREEMENT, when accumulated with all other actual costs.
- b. **Actual Cost Not To Exceed Maximum Percent:** If this method is indicated in the heading of this AGREEMENT, the AGENCY agrees to reimburse the CONSULTANT at the actual overhead rate verified by audit up to the maximum percentage shown in the space provided. Final overhead payment when accumulated with all other actual costs shall not exceed the total maximum amount payable shown in the heading of this AGREEMENT.
- c. **Fixed Rate:** If this method is indicated in the heading of the AGREEMENT, the AGENCY agrees to reimburse the CONSULTANT for overhead at the percentage rate shown. This rate shall not change during the life of the AGREEMENT.

A summary of the CONSULTANT's cost estimate and the overhead computation are attached hereto as Exhibits D and E and by this reference made part of this AGREEMENT. When an actual cost overhead rate or actual cost not to exceed overhead rate is used, the actual overhead rate determined at the end of each fiscal year shall be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's overhead cost to reflect the actual rate.

The CONSULTANT shall advise the AGENCY as soon as possible of the actual overhead rate for each fiscal year and of the actual rate incurred to the date of completion of the work. The AGENCY and/or TIB may perform an audit of the CONSULTANT's books and records at any time during regular business hours to determine the actual overhead rate, if they so desire.

3. Direct Nonsalary Cost

Direct nonsalary costs will be reimbursed at the actual cost to the CONSULTANT applicable to this contract. These charges may include, but are not limited to the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of subconsultants. Air or train travel will only be reimbursed to economy class levels unless otherwise approved by the AGENCY. The billing for nonsalary cost, directly identifiable with the Project, shall be an itemized listing of the charges supported by original bills or legible copies of invoices, expense accounts, and miscellaneous supporting data retained by the CONSULTANT. Copies of the original supporting documents shall be provided to the AGENCY upon request. All of the above charges must be necessary for services to be provided under this AGREEMENT.

4. Fixed Fee

The fixed fee, which represents the CONSULTANT's profit, is shown in the heading of this AGREEMENT under Fixed Fee. This fee is based on the scope of work defined in this AGREEMENT and the estimated man-months required to perform the stated scope of work. In the event a supplemental agreement is entered into for additional work by the CONSULTANT, the supplemental agreement may include provision for the added costs and 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 invoices.



Consultant Agreement

Any portion of the fixed fee earned by not previously paid in the progress payments will be cover in the final payment, subject to the provisions of Section IX, Termination of Agreement.

5. 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 as maximum amount payable, which includes the Fixed Fee, unless a supplemental agreement has been negotiated and executed by the AGENCY prior to incurring any costs in excess of the maximum amount payable.

B. Monthly Progress Payments

The CONSULTANT may submit invoices to the AGENCY for reimbursement of actual costs plus the calculated overhead and fee not more often than once per month during the progress of the work. Such invoices shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, General Requirements, of the AGREEMENT. The invoices will be supported by itemized listing and support document for each item including direct salary, direct nonsalary, and allowable overhead costs to which will be added the prorated Fixed Fee.

C. Final Payment

Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, 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 of any nature 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 that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

D. Inspection of Cost Records

The CONSULTANT and his subconsultants shall keep available for inspection by representatives of the AGENCY and/or TIB, for a period of three years after final payment, the cost records and accounts pertaining to this AGREEMENT. If any litigation, claim, or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the three-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.



EXHIBIT D-1
Consultant Fee Determination Summary Sheet
(Lump Sum, Cost Plus Fixed Fee, Cost per Unit of Work)

Prepared by Tim DeVries, P.E.				Date February 21, 2024	
Project 3 rd Avenue Improvements					
Direct Salary Cost (DSC)					
Classification	Man Hours		Rate		Cost
Principal-In-Charge	18	x	\$46 to \$75	=	\$1,080
Project Manager	80	x	\$42 to \$75	=	\$4,800
Project Engineer	240	x	\$38 to \$57	=	\$11,520
Engineer-In-Training	150	x	\$30 to \$55	=	\$5,250
AutoCAD/GIS Tech./Engineering Intern	240	x	\$20 to \$54	=	\$10,560
Survey Crew (2 Person)	30	x	\$55 to \$94	=	\$1,650
Professional Land Surveyor	70	x	\$38 to \$61	=	\$4,200
TOTAL DSC					\$39,060
OVERHEAD (OH Cost including Salary Additives)					
OH Rate x DSC or 186% x \$39,060					\$72,652
FIXED FEE (FF)					
FF Rate x DSC or 42% x \$39,060					\$16,405
REIMBURSABLES					
Misc. Expenses, including mileage, per diem (room and board), Reproduction, etc.					\$2,275
SUBCONSULTANT COST (See Exhibit G) (including 10% Administrative Overhead)					\$19,608
GRAND TOTAL					\$150,000



EXHIBIT D-2
Consultant Fee Determination Summary Sheet
 (Specific Rates of Pay)
FEE SCHEDULE

Discipline or Job Title	Hourly Rate	Overhead 186%	Profit 42%	Rate Per Hour
AutoCAD/GIS Tech./Engineering Intern	\$20-\$54	\$37.20-\$100.44	\$8.40-\$22.68	\$65.60-\$177.12
Electrical Engineer	\$38-\$69	\$70.68-\$128.34	\$15.96-\$28.98	\$124.64-\$226.32
Structural Engineer	\$36-\$67	\$66.96-\$124.62	\$15.12-\$28.14	\$118.08-\$219.76
Environmental Tech./Specialist	\$28-\$52	\$52.08-\$96.72	\$11.76-\$21.84	\$91.84-\$170.56
Engineer-In-Training	\$30-\$55	\$55.80-\$102.30	\$12.60-\$23.10	\$98.40-\$180.40
Civil Engineer	\$35-\$55	\$65.10-\$102.30	\$14.70-\$23.10	\$114.80-\$180.40
Project Engineer	\$38-\$57	\$70.68-\$106.02	\$15.96-\$23.94	\$124.64-\$186.96
Project Manager	\$42-\$75	\$78.12-\$139.50	\$17.64-\$31.50	\$137.76-\$246.00
Principal-in-Charge	\$46-\$75	\$85.56-\$139.50	\$19.32-\$31.50	\$150.88-\$246.00
Resident Engineer	\$38-\$58	\$70.68-\$107.88	\$15.96-\$24.36	\$124.64-\$190.24
Field Inspector	\$30-\$56	\$55.80-\$104.16	\$12.60-\$23.52	\$98.40-\$183.68
Field Survey Crew (2 Person)	\$55-\$94	\$102.30-\$174.84	\$23.10-\$39.48	\$180.40-\$308.32
Field Survey Crew (3 Person)	\$91-\$130	\$169.26-\$241.80	\$38.22-\$54.60	\$298.48-\$426.40
Professional Land Surveyor	\$38-\$61	\$70.68-\$113.46	\$15.96-\$25.62	\$124.64-\$200.08
Secretary/Word Processor*	N/A	N/A	N/A	N/A

* Secretarial and clerical fees are not billed, but are included in the overhead multiplier listed. The same is true for accounting, bookkeeping, postage, in-house printing up to \$150, word processing, computer use, computer-aided drafting, and telephone and fax costs.

All actual out-of-pocket expenses incurred directly on the project are added to the billing. The billing is based on direct out-of-pocket expenses; meals, lodging, laboratory testing and transportation. The transportation rate is \$0.67 per mile or the current maximum IRS rate without receipt IRS Section 162(a).



**EXHIBIT E-1
Breakdown of Overhead Cost**

GRAY & OSBORNE

COMPUTATION OF OVERHEAD MULTIPLIER

Federal, State, and Local Taxes	21.2%
Insurance and Medical.....	23.0%
Professional Development and Education.....	0.6%
Sick Leave, Vacations and Holidays.....	14.2%
Administration (Typing, CADD, GIS, Computer)**.....	37.2%
Rent, Utilities, and Depreciation.....	19.0%
Office Expenses, Support and Maintenance	5.1%
Travel.....	2.0%
Retirement and Incentive Program.....	63.4%
Facilities Cost of Capital	0.3%
TOTAL:	186.0%

**Administration expenses include secretarial and clerical work; GIS, CADD, and computer equipment; owned survey equipment and tools (stakes, hubs, lath, etc. – Note: mileage billed separately at rate noted); miscellaneous administration tasks; facsimiles; telephone; postage; and printing costs, which are less than \$150.



EXHIBIT F-1
Payment Upon Termination of Agreement
by the Agency Other than for Fault of the Consultant
(Refer to Agreement, Section IX)

Lump Sum Contracts

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

Cost Plus Fixed Fee Contracts

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

Specific Rates of Pay Contracts

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

Cost Per Unit of Work Contracts

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



EXHIBIT G-1 Subcontracted Work

The AGENCY permits subcontracts for the following portions of the work of this AGREEMENT:

Geotechnical

PanGEO, Inc. \$9,975

Cultural Resource Assessment

Plateau Archaeological Investigations, LLC..... \$7,850

Note: Amount shown above does not include 10 percent Administrative Overhead as shown in Exhibit D-1.