

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

Agreement Number:

Firm/Organization Legal Name (do not use dba's): Gray & Osborne, Inc.		
Address 701 Dexter Ave. N., Suite 200, Seattle, WA 98109	Federal Aid Number STPR-08AR(003)	
UBI Number 600 087 923	Federal TIN or SSN Number 91-0890718	
Execution Date	Completion Date September 30, 2017	
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title City of Kalama - Meeker Drive Slide Stabilization/Reconstruction Feasibility		
Description of Work This project provides for: A. Meeker Drive at Nectarine Street Feasibility Study - Develop options to stabilize the embankment and utilities, and provide estimate of construction cost. B. Meeker Drive North of Nectarine Street Feasibility Study - Estimate the movement of the slide, impact on the road and utilities, and whether continuing monitoring is warranted and evaluate feasibility of options.		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation	Total Amount Authorized: \$198,500.00 Management Reserve Fund: \$15,000.00 Maximum Amount Payable: \$213,500.00
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No MBE Participation	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No WBE Participation	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No SBE Participation	

Index of Exhibits

Exhibit A	Scope of Work
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THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Kalama 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.

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

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

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

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

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

If to AGENCY:

Name: Adam Smee
Agency: City of Kalama
Address: 320 North First Street, P.O. Box 1007
City: Kalama State: WA Zip: 98625
Email: asmee@kalama.com
Phone: 360-904-5312
Facsimile: 360-673-4560

If to CONSULTANT:

Name: Thomas M. Zerkel, P.E.
Agency: Gray & Osborne, Inc.
Address: 701 Dexter Avenue North, Suite 200
City: Seattle State: WA Zip: 98109
Email: tzerkel@g-o.com
Phone: 206-284-0860
Facsimile: 206-283-3206

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.

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V. Payment Provisions

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

Failure to supply this information by either the prime CONSULTANT or any of their sub-consultants shall cause the AGENCY to withhold payment of the billed 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. 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, "Changes of 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, "Changes of 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: Adam Smee
Agency: City of Kalama
Address: 320 North First Street, P.O. Box 1007
City: Kalama State: WA Zip: 98625
Email: asmee@kalama.com
Phone: 360-904-5312
Facsimile: 360-673-4560

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.

Agreement Number:

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.

Agreement Number:

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.

Agreement Number:

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,

Agreement Number:


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.

Agreement Number:

EXHIBIT A

SCOPE OF WORK

The City of Kalama, has retained the Consultant to evaluate the slope instabilities along Meeker Drive and prepare a feasibility study for the two areas described below.

- Meeker Drive at the Nectarine Street – This area is located along the outer (west) shoulder of Meeker Drive, immediately north of Nectarine Street, where significant pavement distress, setdown, and tension cracks consistent with slope movements were observed. The affected area is approximately 80-feet long. Topographic features in the area suggest that the west portion of the roadway was constructed by placing fill. The fill embankment is overly steep, and it is also possible that the contact between the fill and the underlying native soils may also be too steep, resulting in a preferential failure surface. This study will include concept design and estimated project costs.

- Meeker Drive, north of Nectarine Street – This study area, approximately 1,500-foot long is located along the north-south oriented portion of Meeker Drive. The pavement surface within the study area exhibits uneven rolling features that are indicative of slope instabilities. A review of topographic features in the project area indicates that the roadway was constructed near the toe of an ancient landslide. The upper extent of the landslide is located just west of Cemetery Road (see attached Location Map). This is consistent with the geology map of the area, which mapped the surface geology along this portion of Meeker Drive and the area upslope from Meeker Drive as landslide deposits. In addition, the landslide inventory compiled by Wegmann (2003) considered the area between Meeker Drive and Cemetery Road as an active landslide. This area is roughly 80 acres in size, and measures about 1,500 feet wide and 2,600-foot long.

The study will include slope stability analysis, if future studies are warranted, and if approximate, conceptual recommendations for slope stabilization.

More specifically the work will include the following:

Task 1 – Project Management

- A. Provide overall project management services including:
 - 1. Preparation and execution of subcontracts;

2. Project staff and subconsultant management;
3. Implementation of quality control program; and
4. Management of project budget and schedule.

Task 2 – Right-of-Way and Topographical Survey

A. Meeker Drive at Nectarine Intersection Feasibility Study.

1. The horizontal vertical control established for the Meeker Drive, north of Nectarine Street Feasibility Study will be used for establishing right-of-way and completing the topographic survey for this section of Meeker Drive. The survey area will be on Meeker Drive from 100 feet south to 600 feet north of its intersection with Nectarine Street.
2. Acquire records of survey, plat maps, assessor maps, etc., as required for establishing right-of-way. Identify right-of-way (centerline and edges).
3. Acquire topographical survey of site (within and adjacent to project corridor to include referencing surface grades; utility markings ; pavement edges; obvious utility structures including utility poles, hydrants, valves; fences; major trees and significant landscaping; pedestrian facilities; driveways; buildings, sanitary, and storm facilities, etc., in sufficient detail to support design of the project.
4. Acquire off-site survey at properties abutting project corridor and intersecting streets. Extend topography up to 10 feet beyond right-of-way lines, where determined to be necessary by the Engineer. Note: This work assumes right of access will be granted by property owners for this work.
5. Incorporate all electronic files (produced by survey) and create base map of project corridor, adjacent parcel lines, and existing utilities of record and/or surveyed utilities.

B. Meeker Drive, North of Nectarine Intersection Feasibility Study.

1. Establish horizontal vertical control for the study area. The horizontal datum will be NAD 83/2011 and the vertical datum will be NAVD 88.

2. Set six control points for the study area. The control points will be used for the LIDAR Survey. Two LIDAR surveys are proposed. The control points will need to be freshened up for the second LIDAR Survey. Our proposal assumes the control points will not need to be reestablished for the second LIDAR Survey.
3. Optical Survey Monitoring – Establish horizontal and vertical points for up to 30 monitoring points identified by the geotechnical engineer. Subsequent readings of the 30 points will be made three times during the study period.

- Note:
- (1) This work assumes a record of survey is not required, nor is it included in our scope of work.
 - (2) Gray & Osborne, Inc. shall be entitled to rely on the accuracy of information provided by others for the purpose of this work (see items above).
 - (3) The City will call for utility locates prior to survey work being completed.
 - (4) The City will acquire right of entry from property owners.

Task 2 – Geotechnical Analysis (work will be completed by PanGEO, Inc.)

- A. Meeker Driver at the Nectarine Street Feasibility Study.
 1. **Site Reconnaissance** – Perform a site reconnaissance of the project area to observe surface conditions. Test boring locations (see Item 2, below) will be marked in the field during the site visit.
 2. **Test Borings (Nectarine Intersection)** – Drill three test borings in the affected area. Two of the borings will be located along the shoulder, and the third boring will be located near the median (see below).



The locations of the test borings are intended to provide adequate information for a wall design (if this option is appropriate and selected), and to estimate the lateral extent of the potential unstable area upslope. The depth of the test borings will depend on the actual soil conditions encountered in the test borings, and should extend at least 10 to 15 feet below the potentially unstable zone. The fee assumes an average boring depth of 50 feet (i.e., a total of 150 feet of drilling).

Standard Penetration Tests (SPT) will be conducted in the boreholes at 2-1/2- and 5-foot depth intervals. The test results will be used to estimate relative density and/or consistency of the site soils. Representative soil samples will be collected from the boreholes for laboratory testing. Depending on the soil types encountered in the test borings, relatively undisturbed soils samples may be obtained for laboratory testing using thin-wall Shelby tubes or a 2.5-inch California Sampler.

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The study will include slope stability analysis, if future studies are warranted, and if approximate, conceptual recommendations for slope stabilization.

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4. Acquire off-site survey at properties abutting project corridor and intersecting streets. Extend topography up to 10 feet beyond right-of-way lines, where determined to be necessary by the Engineer. Note: This work assumes right of access will be granted by property owners for this work.
5. Incorporate all electronic files (produced by survey) and create base map of project corridor, adjacent parcel lines, and existing utilities of record and/or surveyed utilities.

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1. Establish horizontal vertical control for the study area. The horizontal datum will be NAD 83/2011 and the vertical datum will be NAVD 88.

2. Set six control points for the study area. The control points will be used for the LIDAR Survey. Two LIDAR surveys are proposed. The control points will need to be freshened up for the second LIDAR Survey. Our proposal assumes the control points will not need to be reestablished for the second LIDAR Survey.
3. Optical Survey Monitoring – Establish horizontal and vertical points for up to 30 monitoring points identified by the geotechnical engineer. Subsequent readings of the 30 points will be made three times during the study period.

- Note:
- (1) This work assumes a record of survey is not required, nor is it included in our scope of work.
 - (2) Gray & Osborne, Inc. shall be entitled to rely on the accuracy of information provided by others for the purpose of this work (see items above).
 - (3) The City will call for utility locates prior to survey work being completed.
 - (4) The City will acquire right of entry from property owners.

Task 2 – Geotechnical Analysis (work will be completed by PanGEO, Inc.)

- A. Meeker Driver at the Nectarine Street Feasibility Study.
 1. **Site Reconnaissance** – Perform a site reconnaissance of the project area to observe surface conditions. Test boring locations (see Item 2, below) will be marked in the field during the site visit.
 2. **Test Borings (Nectarine Intersection)** – Drill three test borings in the affected area. Two of the borings will be located along the shoulder, and the third boring will be located near the median (see below).



The locations of the test borings are intended to provide adequate information for a wall design (if this option is appropriate and selected), and to estimate the lateral extent of the potential unstable area upslope. The depth of the test borings will depend on the actual soil conditions encountered in the test borings, and should extend at least 10 to 15 feet below the potentially unstable zone. The fee assumes an average boring depth of 50 feet (i.e., a total of 150 feet of drilling).

Standard Penetration Tests (SPT) will be conducted in the boreholes at 2-1/2- and 5-foot depth intervals. The test results will be used to estimate relative density and/or consistency of the site soils. Representative soil samples will be collected from the boreholes for laboratory testing. Depending on the soil types encountered in the test borings, relatively undisturbed soils samples may be obtained for laboratory testing using thin-wall Shelby tubes or a 2.5-inch California Sampler.

3. **Laboratory Tests** – Laboratory tests will be performed on select soil samples. The tests may include in-situ moisture contents,

grain size analysis, Atterberg limits, and if appropriate, direct shear tests.

4. **Engineering and Study** – Perform engineering analysis to evaluate the cause of the slope instability, including a quantitative modeling of the slope stability. A draft report will be prepared and submitted. The draft report will be finalized after receipt of comments from the City. In general, the study will include:
 - A site map with approximate test boring locations;
 - A summary of subsurface conditions including summary test boring logs and at least one generalized subsurface profiles;
 - Options to stabilize the embankment; and
 - Geotechnical recommendations for the selected option(s).

B. Meeker Drive, North of Nectarine Feasibility Study

1. **Site Reconnaissance** – Perform a site reconnaissance along the project alignment to observe surface conditions. Test boring locations (see Item 3, below) will be marked in the field during the site visit.
2. **Literature Review** – We will collect published geology maps and landslide studies to gain a better understanding of the geologic setting.
3. **Test Borings (Meeker Drive)** – Drill six test borings in the affected area at the approximate locations shown on Plate 2, below.



Plate 2. Proposed Approximate Test Boring Location (Meeker Drive)

The test boring locations are approximate. The actual locations will be determined after completion of a site reconnaissance and utility locates, and pending property owners' permissions. As such, the exploration program may vary from the proposed.

The depth of the test borings will depend on the actual soil conditions encountered in the test borings, and should extend at least 10 to 15 feet below the potentially unstable zone. For budgeting purposes, we assume an average boring depth of 100 feet (i.e., a total of 600 feet of drilling).

Standard Penetration Tests (SPT) will be conducted in the borehole at 2-1/2- and 5-foot depth intervals. The test results will be used to estimate relative density and/or consistency of the site soils. Representative soil samples will be collected from the borehole for laboratory testing. Depending on the soil types encountered in the test borings, relatively undisturbed soils samples for laboratory testing may be obtained using thin-wall Shelby tubes or a 2.5-inch California Sampler.

4. **Slope Inclometers** – Once the test borings are completed, we will install 3.34-inch-diameter slope inclinometer casings in the test borings for future monitoring of potential ground movements at various depths. The inclinometers are to measure the magnitude of ground movements, and the depths where the movements occur. A set of baseline readings will be completed within 2 weeks of the installation of the inclinometer casings. Two additional sets of subsequent readings will be performed.
5. **Vibrating Wire Piezometer** – Slope instabilities are often triggered by groundwater. As a result, we propose embedding vibrating wire piezometers in the borings along with the slope inclinometer casings to measure the groundwater pore pressure. The piezometers will be read at the same as the slope inclinometers.
6. **Laboratory Tests** – Laboratory tests will be performed on select soil samples. The tests may include in-situ moisture contents, grain size analysis, Atterberg limits, and if appropriate, direct shear tests.
7. **Optical Survey Monitoring** – The subsurface exploration program consists of relatively widely-spaced test borings and slope inclinometers in areas that are accessible to drilling equipment.

The slope inclinometer readings provide data on potential slope movements at localized discrete locations. To supplement the movement data from the slope inclinometers, we propose establishing 25 to 30 surface markers in the project area for future monitoring.

We envisage that 6 of the surface markers will be located in the wooded area behind the existing residences, and the remaining will be located along the Meeker Drive right-of-way, and within the developed/open area of the existing residences. These surface markers and baseline reading should be established before January/February 2016. A subsequent reading should be made in the mid-summer 2016 time frame. Additional future reading intervals/frequency will depend on the monitoring data. For budgeting purposes, two sets of readings after the baseline reading are assumed.

8. **LiDAR Imaging** – We propose using air-borne LiDAR technology to create a high-resolution digital elevation map of the project area, between Cemetery Road and the toe of the slope located just west of Meeker Drive. This method can be used to detect elevation changes within the survey area between repeat surveys. The survey should be performed prior to the 2015/2016 winter season.

It appears that the Army Corp of Engineers has conducted two recent LiDAR surveys in the area. Specifically, a LiDAR survey completed in 2005 appeared to include the west half of the project area, and a subsequent survey in 2011 may have included a larger area. Provided that we can obtain these data from the Army Corps of Engineers, the results from these previous surveys will be compared to our proposed LiDAR survey to evaluate if significant change in surface elevations had occurred in the past 5 to 10 years and, if appropriate, estimate the magnitude of the movements.

If a second LiDAR survey is warranted, the Consultant will request the City to authorize funding under the Management Reserve Fund.

9. **Engineering Analysis** – We will generate generalized subsurface profiles based on cross sections obtained from LiDAR images and the results of our test borings. We will perform preliminary slope stability analysis based on the subsurface profiles.
10. **Study** – A draft study will be prepared and submitted to the project team for review. The content of the report will depend on the

results of our proposed monitoring program. However, in general, we envisage our study will include:

- A site map with approximate test boring locations;
- A summary of the subsurface conditions, including boring logs and subsurface profiles;
- A summary results of analysis based on LiDAR images, including past movements since 2005 (assuming previous data can be obtained from the Army Corps of Engineers);
- A summary results of slope movements based on slope inclinometer readings;
- A summary results of our slope stability analysis;
- Our opinion regarding slope stability and the if future studies and/or monitoring program will be needed; and
- If appropriate, conceptual recommendations for slope stabilization.

- Note: (1) This work assumes the City of Kalama will provide traffic control at no cost to the Consultant.
- (2) Soil cuttings from the test borings will be disposed at a location designated by the City.

Task 3 – Conceptual Design – Meeker Drive at the Nectarine Intersection

- A. Develop preliminary concepts (10 percent level of design) and estimated construction costs for the recommended repairs at the Nectarine intersection. Assume two concepts will be developed. Concepts will include slide repairs and water and sewer realignment, if required.

Task 4 – Meetings with Agency

- A. Participate in one meeting with City staff and council to review project recommendations.

Task 5 – Quality Assurance/Quality Control Meetings

- A. Conduct one in-house quality assurance/quality control (QA/QC) meetings during the course of the project.

Task 6 – Project Funding Agency

- A. Gray & Osborne staff shall coordinate their work (as applicable) as authorized by the City with the City’s funding agency (WSDOT Local Programs) and assist the City in preparing project prospectus forms, quarterly reports, and other required paperwork.

Task 7 – Management Reserve Fund

The City may require additional services from the Consultant for unanticipated and/or out of scope work items which could include, but are not limited to, geotechnical investigations, LiDAR survey and easement acquisition. The Consultant shall not proceed with the work under this task until the City reviewed consultant proposal for the additional work, has further authorized the work, and issued the consultant a notice to proceed with the work.

Documents to be Furnished by the Consultant

- One copy of each feasibility report.
- Copy of all photographs, exhibits, and drawings prepared as part of this project.

Exhibit B
DBE Participation

No DBE Participation.

Agreement Number:

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

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

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

AutoCAD 2014

B. Roadway Design Files

N/A

C. Computer Aided Drafting Files

AutoCAD 2014

Agreement Number:

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

Agency shall have the right to review data when requested.

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

Feasibility Studies: .pdf file.

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

- Water, Storm and Sanitary Sewer Record Drawings.
- Field locate water, storm and sanitary sewer.
- Traffic control during geotechnical investigation.
- Obtain right-of-entry on private property.

Agreement Number:

II. Any Other Electronic Files to Be Provided

N/A

III. Methods to Electronically Exchange Data

Electronic files to be emailed to Agency.

Consultant's FTP site will be used for files greater than 10 MG.

A. Agency Software Suite

Microsoft Windows 7

B. Electronic Messaging System

Microsoft Outlook

C. File Transfers Format

.pdf, Excel, and Word.

EXHIBIT D

**Consultant Fee Determination - Summary Sheet
(Cost Plus Fixed Fee)**

Meeker Drive Slide Stabilization (North of Nectarine Street) Feasibility Study

Tasks	Principal/ Project Manager	Project Eng. Hours	Technician	Professional Land Surveyor Hours	Surveyor Technician	Field Survey (2 person) Hours
Project Management	16					
Horizontal and Vertical Control and Monitoring Survey	8		40	36	32	108
Geotechnical Analysis	16					
Meetings	16					
Quality Assurance	12	12				
Project Funding Documentation	1	8				
Hour Estimate:	69	20	40	36	32	108
Direct Salary Cost Billing Rate Range:	\$35 to \$56	\$33 to \$43	\$25 to \$34	\$34 to \$42	\$14 to \$27	\$45 to \$60
Estimated Hourly Rates:	\$51	\$35	\$25	\$39	\$27	\$58
Direct Salary Cost:	\$3,519	\$700	\$1,000	\$1,404	\$864	\$6,264

Direct Salary Cost (DSC): \$ 13,751
 Overhead (OH): \$ 24,202
 OH (176%) x DSC

Fixed Fee (FF) : \$ 4,125
 FF rate x DSC 30% x DSC

Direct Non-Salary Cost: \$ 5,040
 Expenses

Subconsultant: \$ 116,082
 PanGeo, Inc

Subtotal, Meeker Drive Slide, North of Nectarine Street, Study \$ 163,200

* Employee's actual rate will be invoiced, estimated rates are for determining total estimated cost only.

EXHIBIT D

**Consultant Fee Determination - Summary Sheet
(Cost Plus Fixed Fee)**

Meeker Drive Slide Stabilization/Reconstruction (at the Nectarine Street) Feasibility Study

Tasks	Principal/Project Manager	Project Eng. Hours	Structural Eng. Hours	Technician	Professional Land Surveyor Hours	Surveyor Technician	Field Survey (2 person) Hours
Project Management	8						
Right of Way and Topographical Survey					8	4	16
Geotechnical Analysis	4						
Concept Design	4	32	16	8			
Meetings	8						
Quality Assurance	4	4					
Project Funding Documentation	1	8					
Hour Estimate:	29	44	16	8	8	4	16
Direct Salary Cost Billing Rate Range:	\$35 to \$56	\$33 to \$43	\$31 to \$56	\$25 to \$34	\$34 to \$42	\$14 to \$27	\$45 to \$60
Estimated Hourly Rates:	\$51	\$35	\$41	\$25	\$39	\$27	\$58
Direct Salary Cost:	\$1,479	\$1,540	\$656	\$200	\$312	\$108	\$928

Direct Salary Cost (DSC): \$ 5,223

Overhead (OH): \$ 9,192

OH (176%) x DSC

Fixed Fee (FF) : \$ 1,567

FF rate x DSC 30% x DSC

Direct Non-Salary Cost: \$ 1,002

Expenses

Subconsultant: \$ 18,316

PanGeo, Inc

Subtotal, Meeker Drive Slide, at Nectarine Street, Study \$ 35,300

Subtotal, Meeker Drive Slide, North of Nectarine Street, Study \$ 163,200

TOTAL ESTIMATED COST: \$ 198,500

MANAGEMENT RESERVE FUND \$ 15,000

TOTAL ESTIMATED COST, INCL. MANAGEMENT RESERVE: \$ 213,500

* Employee's actual rate will be invoiced, estimated rates are for determining total estimated cost only.

EXHIBIT D
Consultant Fee Determination – Summary Sheet
(Specific Rates of Pay)
Fee Schedule

Discipline or Job Title	Hourly Rate	Overhead 176%	Profit 30%	Rate Per Hour
Survey Technician/CADD Technician/Drafter	\$15-\$36	\$26.40-\$63.36	\$4.50-\$10.80	\$45.90-\$110.16
E.I.T./Design/Civil Engineers	\$24-\$36	\$42.24-\$63.36	\$7.20-\$10.80	\$73.44-\$110.16
Environmental Technician/Specialist	\$25-\$34	\$44.00-\$59.84	\$7.50-\$10.20	\$76.50-\$104.04
Transportation/Electrical/Structural Engineers	\$31-\$56	\$54.56-\$98.56	\$9.30-\$16.80	\$94.86-\$171.36
Project Manager/Engineer	\$33-\$55	\$58.08-\$96.80	\$9.90-\$16.50	\$100.98-\$168.30
Principal-in-Charge	\$35-\$55	\$61.60-\$96.80	\$10.50-\$16.50	\$107.10-\$168.30
Survey Crew	\$45-\$85	\$79.20-\$149.60	\$13.50-\$25.50	\$137.70-\$260.10
Professional Land Surveyor	\$34-\$42	\$59.84-\$73.92	\$10.20-\$12.60	\$104.04-\$128.52
Field Inspector/Resident Engineer	\$23-\$52	\$40.48-\$91.52	\$6.90-\$15.60	\$70.38-\$159.12
Secretary/Typist*	N/A	N/A	N/A	N/A

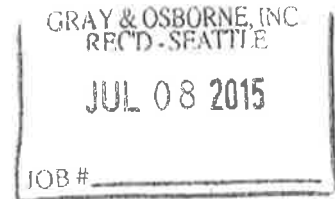
* Secretarial and clerical fees are not billed, but are included in the overhead multiplier listed. The same is true for accounting, bookkeeping, postage, in-house printing up to \$150, word processing, computer use, computer-aided drafting, and telephone and fax costs.



**Washington State
Department of Transportation**

Lynn Peterson
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov



June 30, 2015

Gray & Osborne, Inc.
701 Dexter Avenue N, Suite 200
Seattle, WA 98109

Subject: Acceptance FYE 2014 ICR – Audit Office Review

Dear Ms. Melissa Drysdale:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2014 Indirect Cost Rate (ICR) of 176.00%. Your ICR acceptance is in accordance with 23 CFR 172.7 and must be updated on an annual basis. This rate will be applicable for:

- WSDOT Agreements
- Local Agency Contracts in Washington State only

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7104 or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Manager, Consultant Services Office

EKJ:rck

Gray Osborne, Inc.
Indirect Cost Rate Schedule
For the Year Ended December 31, 2014

Description	Financial Statement Amount	G&O Adj.	WSDOT Adj.	Ref.	Accepted Amount	%
Direct Labor	<u>\$6,128,980</u>				<u>\$6,128,980</u>	100.00%
Indirect Costs:						
Fringe Benefits						
Vacation Pay	\$518,687	(\$29,448)		A	\$489,239	7.98%
Sick Pay	98,849				98,849	1.61%
Holiday Pay	275,858				275,858	4.50%
Payroll Taxes	941,046	(106)	(\$469)	I, L	940,471	15.34%
Health Insurance	1,327,666				1,327,666	21.66%
Workers' Comp. Insurance	50,084				50,084	0.82%
Profit Sharing (401-k)	750,000				750,000	12.24%
Total Fringe Benefits	<u>\$3,962,190</u>	<u>(\$29,555)</u>	<u>(\$469)</u>		<u>\$3,932,166</u>	<u>64.16%</u>
General Overhead						
Indirect Labor	\$1,449,601				\$1,449,601	23.65%
Labor Variance	15,772		(\$4,169)	K	\$11,603	0.19%
Bid & Proposal Labor	791,316				791,316	12.91%
Incentive Bonus	2,485,801				2,485,801	40.56%
State & City Taxes	401,380				401,380	6.55%
Insurance	136,966				136,966	2.23%
Office Expenses	399,254	(\$19,672)		B	379,582	6.19%
Travel	197,746	(44,405)		C	153,342	2.50%
Telephone	58,344				58,344	0.95%
Fees, Dues, & Meetings	31,495				31,495	0.51%
Utilities & Maintenance	155,165				155,165	2.53%
Rent	695,302				695,302	11.34%
Depreciation	98,427				98,427	1.61%
Recruiting	7,924				7,924	0.13%
Professional Services	29,938	(1,064)		D	28,874	0.47%
Recovery	(37,145)				(37,145)	-0.61%
Interest Expense	66,932	(66,932)		E	0	0.00%
Taxes	475,148	(475,148)		F	0	0.00%
Charitable Contributions	10,905	(10,905)		G	0	0.00%
Advertising	16,983	(16,983)		H	0	0.00%
Deferred Compensation	3,750	(3,750)		I	0	0.00%
Key Man Life Insurance	38,139	(38,139)		J	0	0.00%
Total General Overhead	<u>\$7,529,141</u>	<u>(\$676,997)</u>	<u>(\$4,169)</u>		<u>\$6,847,975</u>	<u>111.73%</u>
Total Indirect Costs & Overhead	<u>\$11,491,331</u>	<u>(\$706,552)</u>	<u>(\$4,638)</u>		<u>\$10,780,141</u>	<u>175.89%</u>
Indirect Cost Rate (Less FCC)	187.49%	111.80%			<u>175.89%</u>	
Facilities Cost of Capital		\$6,798			\$6,798	0.11%
	<u>\$11,491,331</u>	<u>(\$706,552)</u>	<u>(\$4,638)</u>		<u>\$10,786,939</u>	
Indirect Cost Rate (Includes FCC)					<u>176.00%</u>	

Gray & Osborne, Inc. - Reviewed and Accepted by BC 6/25/15
"Indirect Cost Rate still subject to WSDOT Audit"

Gray Osborne, Inc.
Indirect Cost Rate Schedule
For the Year Ended December 31, 2014

References

Gray & Osborne, Inc. Adjustments:

Gray & Osborne, Inc. Indirect Cost Rate Audited by Gray & Osborne, Inc.

- A Vacation accrued (\$29,448) instead of actual vacation paid per 48 CFR 31.205-6(m)
- B Employee/Client Appreciation (\$19,672) unallowable per 48 CFR 31.205-13(b), 31.205-14
- C Unallowable items (\$44,405) related to entertainment per 48 CFR 31.205-14, and direct cost and expenses that exceeded allowable per diem per 48 CFR 31.205-46 and 31.202(2)
- D Legal Costs (\$1,064) Unallowable, per 48 CFR 31.205-47(f)(5)
- E Interest unallowable (\$66,932) per 48 CFR 31.205-20
- F Unallowable taxes (\$475,148) per 48 CFR 31.205-41
- G Contributions (\$10,905) unallowable per 48 CFR 31.205-8
- H Advertising (\$16,983) Unallowable per CFR 31.205-1
- I Bonus payment (\$106) and (\$3750) not performance based unallowable per 48 CFR 31.205-6 and 2010 AASHTO
- J Key person life insurance (\$38,139) unallowable per 48 CFR 31.205-19

WSDOT Adjustments:

- K Payroll Adjustment for comp time paid out at higher rate than earned due to mid year pay raise, (\$4,169) as labor expense was recorded when incurred per 48 CFR 31.205-6(h)
- L Directly associated cost (\$469) for portion of fringe benefits due to comp time mid year pay raise per 48 CFR 31.201-6(a)

EXHIBIT E

Proposal for Geotechnical Engineering Services.

Slope Stability Evaluations, Kalama, WA

August 3, 2015 (revised September 18, 2015)

EXHIBIT E - COST ESTIMATE (Nectarine Intersection)

ESTIMATED LABOR:

WORK TASK DESCRIPTION	PanGEO Labor Hours & Direct Hourly Rates						Direct Salary Cost (DSC)
	S. Tan	J. Rehkopf	S. Swenson				
	\$58.70	\$45.20	\$36.05				
Site Reconnaissance	6	6	6				\$840
Drilling Borings / Coordinations		1	18				\$694
Select samples lab tests / Review	1		1				\$95
Meeting	8						\$470
Engineering / Report	8	6	32				\$1,894
TOTAL DSC :	0	23	13	57	0	0	\$3,993

LABORATORY TEST SUMMARY (Subcontractor):			
Test	Est. No. Tests	Unit Cost	Total Cost
Moisture Content	6	\$18	\$108
Grain Size Analysis	4	\$110	\$440
Atterberg	4	\$110	\$440

TOTAL LABORATORY TESTING: \$988

ESTIMATED DRILLING COST EXPENSES (Subcontractor):	
Drill rig Mob/De Mob:	\$800
Drill Borings (150 feet)	\$4,620
DOE Start Card Fee (\$25/boring):	\$75
Slope Inclinometer Installation (\$10/ft):	\$0
Vibrating Wire Piezo Installation (\$200 each):	\$0
Per Diem, \$300 per day:	\$300
Clean-up, standby, etc:	\$240
Subtotal:	\$6,035

OVERHEAD & PROFIT:

Overhead @ 126.55% of DSC	\$5,053
Fix Fee (FF) @ 30% of DSC	\$1,198

TOTAL LABOR COSTS: \$10,243

ESTIMATED DIRECT EXPENSES:

Mileage (2 trips):	\$800
Per Diem, 1 days:	\$150
Field Supplies:	\$100
Subtotal:	\$1,050

PROJECT COST SUMMARY:

Total Labor Cost (Fully Loaded):	\$10,243
Direct Expenses	\$1,050
Subcontractor Lab Tests	\$988
Subcontractor Drilling:	\$6,035
TOTAL:	\$18,316

EXHIBIT E

Proposal for Geotechnical Engineering Services.
Slope Stability Evaluations, Kalama, WA
August 3, 2015 (revised September 18, 2015)

EXHIBIT E - COST ESTIMATE (Meeker Drive)

ESTIMATED LABOR:

WORK TASK DESCRIPTION	PanGEO Labor Hours & Direct Hourly Rates					Direct Salary Cost (DSC)	
	S. Tan	J. Rehkopf	S. Swenson				
	\$58.70	\$45.20	\$36.05				
Site Reconnaissance	6	6	6			\$840	
Literature Review	2	8				\$479	
Drilling Borings / Coordinations	4	8	72			\$3,192	
Prepare Boring Logs	2	4	14			\$803	
Select samples lab tests / Review	4		4			\$379	
LiDAR - Coordination/Evaluation	4	16				\$958	
Engineering / Cross Sections	8	40	60			\$4,441	
Read/Plot Slope Inclinometers (3 trips)	4		102			\$3,912	
Meeting	16	4				\$1,120	
Summary Report	20	40	80			\$5,866	
Consultation	16					\$939	
TOTAL DSC :	0	86	126	338	0	0	\$22,928

LABORATORY TEST SUMMARY (Subcontractor):			
Test	Est. No. Tests	Unit Cost	Total Cost
Moisture Content	20	\$18	\$360
Grain Size Analysis	12	\$110	\$1,320
Atterberg	12	\$110	\$1,320

TOTAL LABORATORY TESTING: \$3,000

ESTIMATED DRILLING COST EXPENSES (Subcontractor):	
Drill rig Mob/De Mob:	\$800
Drill Borings (260 feet @ \$35/ft)	\$18,480
DOE Start Card Fee (\$25/boring):	\$150
Slope Inclinometer Installation (\$10/ft):	\$6,000
Vibrating Wire Piezo Installation (\$200 each):	\$1,200
Per Diem, \$300 per day:	\$2,100
Clean-up, standby, etc:	\$1,500
Subtotal:	\$30,230

ESTIMATED LiDAR COST (Subcontractor):	
Baseline Flight (2015):	\$12,500
Research/Acquire Data from Corps of Engineers:	\$500
Subtotal:	\$13,000

OVERHEAD & PROFIT:

Overhead @ 126.55% of DSC \$29,016
Fix Fee (FF) @ 30% of DSC \$6,878

TOTAL LABOR COSTS: \$58,823

ESTIMATED DIRECT EXPENSES:

Mileage (8 trips): \$1,350
Per Diem, 6 days: \$900
Slope Inclinometer Casing (\$10/ft): \$6,000
Vibrating Wire Piezo (\$450 each): \$2,700
Field Supplies: \$79
Subtotal: \$11,029

PROJECT COST SUMMARY:

Total Labor Cost (Fully Loaded): \$58,823
Direct Expenses \$11,029
Subcontractor Lab Tests \$3,000
Subcontractor Drilling: \$30,230
LiDAR image acquisition (baseline): \$13,000
TOTAL: \$116,082

EXHIBIT E



**Washington State
Department of Transportation**

Lynn Peterson
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 9, 2015

PanGEO, Inc.
3213 Eastlake Avenue E, Suite B
Seattle, WA 98102

Subject: Acceptance FYE 2014 ICR - Negotiated

Dear Ms. Kristin Kimmerling:

We have negotiated and accepted your firms FYE 2014 Indirect Cost Rate (ICR) of 126.55%. This ICR acceptance is in accordance with 23 CFR 172.7 and must be updated on an annual basis. This rate will be applicable for:

- WSDOT Agreements
- Local Agency Contracts in Washington State only

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7104 or via email consultantrates@wsdot.wa.gov.

Regards;

A handwritten signature in black ink, appearing to read 'Erik K. Jonson'.

ERIK K. JONSON

Manager, Consultant Services Office

EKJ:rek

EXHIBIT E

PanGEO, Inc. Overhead Schedule 2014

Description	Proposed Amount	Adj.	Ref.	Adjusted Amount	%
Direct Labor Costs	<u>\$1,069,463</u>	<u>-\$52,497</u>	G	<u>\$1,016,967</u>	
General Overhead Expenses					
Direct NonSalary Costs	\$580,310	\$580,310	A	0	0.00%
Indirect Officers Salaries*	77,637	-1,579	B	76,058	7.48%
Indirect Technical/Admin Salaries	152,976	-1,702	B	151,274	14.88%
Bonuses	281,280	281,280	C	188,000	0.00%
SEP-IRA Contribution	379,648	<93,191>		379,648	37.33%
Medical/Dental Insurance	166,008			166,008	16.32%
Payroll Taxes	109,150	-251	B	108,899	10.71%
Advertising	654	-654	D	0	0.00%
Amortization Expense	0			0	0.00%
Bank Service Charges	51	-51	F	0	0.00%
Computers	10,259			10,259	1.01%
Contributions	500	-500	E	0	0.00%
Depreciation Expense	0			0	0.00%
Dues & Subscriptions	2,704			2,704	0.27%
Employee Morale	2,660			2,660	0.26%
Employee Recruitment	0			0	0.00%
Field Supplies	2,796			2,796	0.27%
Furniture and Fixtures < \$1000	1,518			1,518	0.15%
Promotion	1,115	-1,115	B	0	0.00%
General Liability Insurance	1,537			1,537	0.15%
Professional Liability Insurance	51,203			51,203	5.03%
Interest Expense	0			0	0.00%
Licenses and Permits	1,790			1,790	0.18%
Office Supplies/Moving expense	3,115			3,115	0.31%
Postage and Delivery	720			720	0.07%
Printing and Reproduction	1,050			1,050	0.10%
Professional Development	2,731			2,731	0.27%
Professional Fees	13,131			13,131	1.29%
Reference (Books/Maps/etc.)	848			848	0.08%
Rent	45,733			45,733	4.50%
Repairs	1,271			1,271	0.12%
Section 179 Depreciation Expenses	1,555	-1,555		0	0.00%
B & O Taxes	55,897			55,897	5.50%
Property Taxes	393			393	0.04%
Telephone	11,093			11,093	1.09%
Entertainment	6,485	-6,485	B	0	0.00%
Meals/Travel	5,690	-1,063	B	4,627	0.45%
Utilities	1,619			1,619	0.16%
Total General Overhead Expenses	<u>\$1,984,134</u>	<u>-\$885,553</u>		<u>\$1,098,581</u>	<u>108.03%</u>

? = 18.5%

126.55%

Overhead Rate

1,394,815 / 108.03% = 1,286,649

References

- A Per 48 CFR 31.202(a)
- B 48 CFR 31.205-1(d) and 48CFR 31.205-14
- C Per 48 CFR 31-205-6(a)(6)(ii)(B)
- D Per 48 CFR 31.205-1(d)
- E Per 48 CFR 31.205-8
- F Per 48 CFR 31.205-20
- G Per 48 CFR 37.115, DCAA5-910,5-910.2 & 6-410 ?

126.55%

* Indirect Officers salary amount includes adjustment for payroll variance (= amount on P&L)

Adjustment Bonus to 18.5% of DL.

Exhibit F

Title VI Assurances

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

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

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

Agreement Number:

Exhibit G

Certification Documents

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

Agreement Number:

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Gray & Osborne, Inc.

whose address is

701 Dexter Avenue North, Suite 200, Seattle, Washington 98109

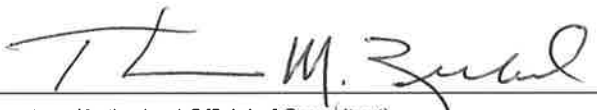
and that neither the above firm nor I have:

- 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);

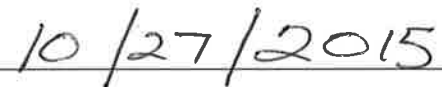
I acknowledge that this certificate is to be furnished to the City of Kalama and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal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

Gray & Osborne, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)



Date

Agreement Number:

Exhibit G-1(b) Certification of City of Kalama

I hereby certify that I am the:

Mayor, Pete Poulsen

Other

of the City of Kalama, and Gray & Osborne, Inc.
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

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

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

Signature

Date

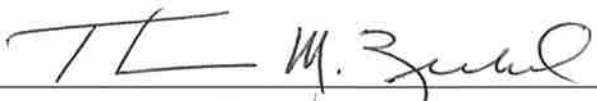
Agreement Number:

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

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

Gray & Osborne, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

10/27/2015
Date

Agreement Number:

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

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

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

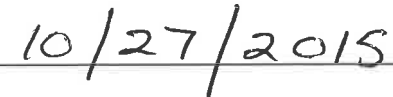
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to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

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

Gray & Osborne, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)


Date

Agreement Number:

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

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

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

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: \$ N/A

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

Agreement Number:

Alleged Consultant Design Error Procedures

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

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

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

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

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

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

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

Step 4 Attempt to Resolve Alleged Design Error with Consultant

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

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

Agreement Number:

Step 5 Forward Documents to Local Programs

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

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

Agreement Number:

Exhibit J

Consultant Claim Procedures

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

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

Step 1 Consultant Files a Claim with the Agency Project Manager

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

The consultant's claim must outline the following:

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

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

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will 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:

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

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

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number: