

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

DATE: April 24, 2008

ITEM #: C - 8

SUBJECT: Award Contract for Group Four surveying and drafting services for improvements to 2nd Street Improvements.

CONTACT PERSON: Jon Stack – Engineering

ISSUE:

Authorize the Mayor to sign a contract not to exceed \$10,132.00 with Group Four for surveying and drafting services for improvements to 2nd Street. Final design will be completed by City Engineer.

SUMMARY:

Approve a contract for Group Four to provide surveying and drafting services as specified per contract agreement; to create design sheets, with base maps of street, cross sections, water main details for improvements to 2nd Street.

BACKGROUND:

Four survey/engineering firms were invited to provide a statement of interest and qualifications. Group 4 was chosen for the project as being the best qualified.

Group Four submitted a proposal in the amount of \$10,132.47 for drafting services for plan view of proposed improvements, including, water main replacement, new water services location details, new ADA ramp locations and details, limits of paving/overlay/reconstruction area, limited storm drainage, new roadway cross-sections, curb replacement locations with details, sidewalk replacement locations details.

FISCAL IMPACT:

The contract is not to exceed \$10,132.47 and will be funded by CDBG Community Development Block Grant in the amount of \$212,521.

ALTERNATIVES:

1. Authorize Mayor to approve a contract with Group Four.
2. Do not authorize the Mayor to approve contract with Group Four.
3. Do not authorize a contract *and* direct Staff to areas of concern.

RECOMMENDED ACTION:

I MOVE TO AUTHORIZE THE MAYOR TO APPROVE A SURVEY AND DRAFTING CONTRACT WITH GROUP FOUR FOR THE 2ND STREET IMPROVEMENT PROJECT.

ATTACHMENTS:

A- Contract

COUNCIL ACTION:

DATE:



Exhibit "A"

16030 Juanita-Woodinville Way NE
Bothell, Washington 98011
FAX (206) 362-3819
(425) 775-4581 • (206) 362-4244
e-mail: info@grp4.com

April 18, 2008

Jon R. Stack, P.E.
City of Sultan
P.O. Box 1199
Sultan, WA 98294

RE: Scope of Work for 2nd Street

Dear Jon,

Thank you for selecting Group Four, Inc., for providing City of Sultan with our surveying and drafting services. Below you will find our detailed scope of work.

•Phase 1:

Provide a Topographic Survey, for 2nd Street, from the intersection of Main Street to Ash Street. This will include all existing conditions located from the field and any as-built information we may need to provide a complete Topographic Survey.

•Phase 2:

Provide base maps to be used for design by City staff. Coordinate design drafting with City staff. Provide drafting services for plan view of the proposed improvements, including, but not limited to, water main replacement, new water services location and details, new ADA ramp locations and details, limits of paving/overlay/reconstruction areas, limited storm drainage, new roadway cross-sections, curb replacement locations with details, sidewalk replacement locations and details, etc. It is our understanding that roadway and drainage profiles will not be required, and that there will be no sanitary sewer improvements. Group Four, Inc. to provide three iterations of check prints for City staff review and comment, and 20 sets of the final, approved construction plans for bidding purposes.

•Phase 3:

Provide Construction Staking per approved design plans that would include street centerline, storm, curbs, sidewalks, water main and provide cut sheets for all staking done.

Exhibit "A"

I hope this scope of work meets with your approval. If you have any questions, please feel free to contact me.

Sincerely,
GROUP FOUR, INC.

A handwritten signature in black ink, appearing to read 'Richard van Mourik', written over a faint circular stamp or watermark.

Richard van Mourik
Project Manager

GROUP FOUR, INC. - PROFESSIONAL BILLING RATES

	Hours	Rate / Hr.	Total
PROJECT MANAGER			
22	4	\$ 97.27	\$ 389.08
SURVEY/CREWS			
	24	\$ 133.76	\$ 3,210.24
COMPUTING- SURVEY			
41	12	\$ 105.05	\$ 1,260.60
44	30	\$ 68.16	\$ 2,044.80
ENGINEER- CIVIL			
63	4	\$ 124.53	\$ 498.12
DRAFTING			
76	16	\$ 103.83	\$ 1,661.28
ADMIN. SUPPORT STAFF			
81	1	\$ 96.61	\$ 96.61
82	1	\$ 67.50	\$ 67.50
		LABOR	\$ 9,228.23

REIMBURSABLES: PRINTS, PLOTS, MILEAGE, ETC.

MILEAGE	176	\$ 0.505	\$ 88.88
		PER SQ FT	
PAPER	12	\$ 0.25	\$ 3.00

DIRECT LABOR, OVERHEAD AND DIRECT COSTS TOTAL	\$ 9,320.11
FIXED FEE	\$ 812.36
PROJECT TOTAL	\$ 10,132.47

**CITY OF SULTAN
ON-CALL CONSULTANT AGREEMENT**

PROJECT TITLE City of Sultan "2 nd Street"	SERVICES DESCRIPTION CONSULTANT to provide the following services:
PROJECT NO. 08-4037	<input type="checkbox"/> Surveying and Drafting Services
CONSULTANT Group Four, Inc.	CONSULTANT ADDRESS 16030 Juanita-Woodinville Way NE Bothell, WA 98011
FEDERAL I.D. NO. 910874914	
MAXIMUM AMOUNT PAYABLE 10,132.00	COMPLETION DATE Phase 1 May 14 th , 2008

THIS AGREEMENT, made and entered into this, day of April 18, 2008, between the City of Sultan, Washington, hereinafter called "SULTAN" and the above organization hereinafter called "CONSULTANT".

WITNESSETH THAT:

WHEREAS, SULTAN desires to accomplish various improvement projects; and

WHEREAS, SULTAN 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 for the PROJECT; and

WHEREAS, CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable and has signified a willingness to furnish consulting services to SULTAN.

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 SERVICES

The services under this AGREEMENT shall consist of SURVEY AND DRAFTING SERVICES. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the services as designated from time to time when requests for on-call surveying services are issued to CONSULTANT.

II SCOPE OF SERVICES

The Scope of Services and project level of effort for on-call services will be described and detailed in an Exhibit "A" which will be attached hereto and by this reference made a part of this AGREEMENT.

III GENERAL REQUIREMENTS

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

The CONSULTANT shall attend coordination, progress and presentation meetings with SULTAN or such Federal, Community, State SULTAN or County officials, groups or individuals as may be requested by SULTAN. SULTAN will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. If requested, the CONSULTANT shall prepare a monthly progress report in a form approved by SULTAN that 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.

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

IV
TIME FOR BEGINNING AND COMPLETION

The CONSULTANT shall not begin any services under the terms of this AGREEMENT until authorized in writing by SULTAN. All services under this AGREEMENT shall be completed by the date that may be shown in EXHIBIT "A".

V
PAYMENT

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

Example of cost plus fixed fee:

1) The consultant contract amount shall be as follows:

A total amount not to exceed \$10,132.00

2) Direct labor costs, overhead costs and direct costs not to exceed (A)\$9,319.64 and fixed fee (profit) not to exceed (B)\$812.36. Total amount not to exceed \$ A+B=C \$10,132.00.

3) The Method of Billing will be as follows:

a. All costs will be billed in the following manner at the indicated hourly rates that include direct and indirect costs only:

Typical positions

<input type="checkbox"/>	Principal	\$
<input type="checkbox"/>	Engineer	\$
<input type="checkbox"/>	Surveyor	\$
<input type="checkbox"/>	Technician	\$
<input type="checkbox"/>	Drafter	\$
<input type="checkbox"/>	2 man survey crew	\$

All costs are subject to post audit and recovery.

b. The fixed fee (profit) will be billed on the following basis:

- | | |
|--|--------------|
| ▪ Due upon acceptance of design sheets | 20% of total |
| ▪ Due upon acceptance of base map with street
Cross sections, water main details, drainage,
And street details | 20% of total |
| ▪ Due upon acceptance of construction plan | 20% of total |

- Due upon completion of working drawings
Ready for bidding 20% of total
- Due upon project staking and project completion 20% of total

The following contract clauses are to be included in their entirety:

Access to Books/Record – Representatives from the owner, Snohomish County of HUD may, at reasonable times, inspect the books and records of the consultant relating to performance of this contract.

Compliance of Laws – The consultant shall comply with all applicable federal, state and local laws in performing this contract.

VI EQUAL OPPORTUNITY PROVISIONS

1. Equal Employment Opportunity During the performance of this Contract, the Consultant Agrees as follows:

- a) The Consultant will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.
- b) The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- c) The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- d) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and with the rules, regulations and relevant orders of the Secretary of Labor.

- e) The Consultant will furnish all information and reports required by executive order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the City's Department of Housing and Community Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- f) In the event of the Consultant's noncompliance with the non-compliance clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contract in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g) The Consultant will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the City's Department of Housing and Community Development may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City's Department of Housing and Community Development, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

2. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance

3. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

4. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

- a) The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b) The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
- c) The Consultant will send to each labor organization or representative of worker with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of this commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training
- d) The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that he later has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provide it with a preliminary statement of ability to comply with the requirements of these regulations.
- e) Compliance with the provisions of Section 3. The regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the

contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

VII SUBCONTRACTING

SULTAN permits subcontracts for those items of services as may be shown in Exhibit "A" to this AGREEMENT.

The services of the sub-consultant shall not exceed its maximum amount payable unless a prior written approval has been issued by SULTAN.

The CONSULTANT shall not sub-contract for the performance of any services under this AGREEMENT without prior written permission of SULTAN. No permission for sub-contracting shall create between SULTAN and sub-contractor any contract or any other relationship.

VIII EMPLOYMENT

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

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

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

IX
NON-DISCRIMINATION

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

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

- A. **COMPLIANCE WITH REGULATIONS:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in the same manner as in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the AGREEMENT. The CONSULTANT shall comply with the Americans with Disabilities Act of 1992, as amended.
- B. **NON-DISCRIMINATION:** The CONSULTANT, with regard to the services performed by it during the AGREEMENT, shall not discriminate on the grounds of race, creed, color, religion, sex, age, marital status, national origin or handicap except for a bona fide occupational qualification in the selection and retention of sub, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix II of the Regulations.
- C. **SOLICITATIONS FOR SUB-CONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for services to be performed under a subcontract, including procurements 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 nondiscrimination on the grounds of race, creed, color, religion, sex, age, marital status, national origin and handicap.
- D. **INFORMATION AND REPORTS:** The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by SULTAN to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the

CONSULTANT shall so certify to SULTAN and shall set forth what efforts it has made to obtain the information.

- E. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, SULTAN shall impose such sanctions as it may determine to be appropriate, including but not limited to:
1. Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies and/or
 2. Cancellation, termination or suspension of the AGREEMENT, in whole or part.
- F. **INCORPORATION OF PROVISIONS:** The CONSULTANT shall include the provisions of paragraphs (A) through (G) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub consultant or procurement as SULTAN may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however that in the event a CONSULTANT becomes involved in or is threatened with litigation with a sub consultant or supplier as a result of such direction, the CONSULTANT may request SULTAN to enter into such litigation to protect the interests of SULTAN.
- G. **UNFAIR EMPLOYMENT PRACTICES:** The CONSULTANT shall comply with RCW 49.60.189.

X TERMINATION OF AGREEMENT

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

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

No payment shall be made for any services completed after ten 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, computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse SULTAN for any excess paid.

If SULTAN terminates the services of the CONSULTANT for default on the part of the CONSULTANT, the above formula for payment shall not apply. In such an event, the amount to be paid shall be determined by SULTAN with consideration given to the actual costs incurred by the CONSULTANT in performing the services to the date of termination, the amount of services originally required which was satisfactorily completed to date of termination, whether that service is in a form or a type which is usable to SULTAN at the time of termination; the cost to SULTAN 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 SULTAN 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 the previous paragraph.

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

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

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

Payment for any part of the services by SULTAN shall not constitute a waiver by SULTAN of any remedies of any type it may have against the CONSULTANT for any breach of the AGREEMENT by the CONSULTANT or for failure of the CONSULTANT to perform services required of it by SULTAN. 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.

XI CHANGES OF SERVICES

The CONSULTANT shall make such changes and revisions in the complete services of this AGREEMENT as necessary to correct errors appearing therein when required to do so by SULTAN, without additional compensation thereof. Should SULTAN 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 SULTAN. These services shall be considered as Extra Services and will be paid for as herein provided under Section XIV.

XII DISPUTES

Any dispute concerning questions of fact in connection with the services not disposed of by AGREEMENT between the CONSULTANT and SULTAN shall be referred for determination to the Director of Public Works or SULTAN 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 SULTAN Engineer's decision, that decision shall be subject to de novo judicial review.

XIII VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION

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

XIV LEGAL RELATIONS AND INSURANCE

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

The CONSULTANT shall indemnify and hold SULTAN and their officers and employees harmless from the CONSULTANT's negligence under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify SULTAN against and hold harmless SULTAN from claims, demands or suits based upon the conduct of SULTAN, their agents, officers and employees and provided further that if they are caused by the concurrent negligence of (a) the CONSULTANT's or employees and (b) SULTAN, their officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to SULTAN of defending such claims and suits, etc. shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's employees.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees against SULTAN and, solely for the purpose of this indemnification, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The CONSULTANT recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.25.115 and was the subject of mutual negotiation.

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

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the State of Washington.
- B. Regular liability and property damage insurance in an amount not less than a single limit of one million and 00/100 Dollars (\$1,000,000.00) for bodily injury including death and property damage per occurrence.
- C. Professional liability insurance in the amount of \$1,000,000 against claims arising out of services provided for in this contract.

Excepting the Worker's Compensation insurance and any professional liability insurance secured by the CONSULTANT, SULTAN will be named on all certificates of insurance as an additional insured. The CONSULTANT shall furnish SULTAN with verification of insurance and endorsements required by this AGREEMENT. SULTAN reserves the right to require complete certified copies of all required insurance policies at any time.

All insurance shall be obtained from insurance companies authorized to do business in the State of Washington. The CONSULTANT shall submit a certificate of insurance as outlined above within 14 days of the execution of this AGREEMENT to SULTAN.

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

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

**XV
EXTRA SERVICES**

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

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 the AGREEMENT, SULTAN shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.

The CONSULTANT must submit its "request for equitable adjustment" (hereafter referred to as claim) under this clause within 30 days form the date of receipt of the written order. However, if SULTAN decides that the facts justify it, SULTAN may receive and act upon a claim submitted before final payment of the AGREEMENT.

Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.

Notwithstanding the terms and conditions of the first two paragraphs 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.

**XVI
ENDORSEMENT OF PLANS**

The CONSULTANT shall place its endorsement on all final survey products.

**XVII
COMPLETE AGREEMENT**

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

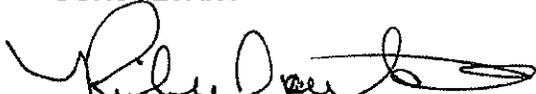
**XVIII
EXECUTION AND ACCEPTANCE**

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 agreements contained in the proposal and the supporting materials submitted by the CONSULTANT and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

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

CONSULTANT

CITY OF SULTAN



RICHARD VAN MOURIK

PROJECT MANAGER

Title

Title

ATTEST:

Sultan Clerk

APPROVES AS TO FORM:

City of Sultan Attorney