

**PORT OF WHITMAN COUNTY
REQUEST FOR QUALIFICATIONS
ARCHITECTURAL AND ENGINEERING SERVICES
PROFESSIONAL SERVICES AGREEMENT**

A. GENERAL INFORMATION

The Port of Whitman County (Port) is soliciting Statements of Qualifications (SOQ) from qualified Consultants registered in the State of Washington to provide Engineering Services for the North Sumner Street Pedestrian Improvements Project (Project). The agreement is expected to be awarded in April 2026 and will be approximately 150 working days in duration with the option for the (Port) to extend it for additional time and money if necessary. Consultants will be considered for the Engineering Services for the North Sumner Street Pedestrian Improvements Project (Project).

This Project is funded through a Local Agency Agreement with the Washington State Department of Transportation and shall comply with 23 CFR § 172 and all applicable state and federal requirements. There are no DBE or SBE program requirements assigned to the agreement.

The Port reserves the right to amend terms of this “Request for Qualifications” (RFQ) to circulate various addenda, or to withdraw the RFQ at any time, regardless of how much time and effort consultants have spent on their responses.

This RFQ and additional exhibits and documentation may be obtained via the Port’s website at <https://www.portwhitman.com/contractors>.

Additional exhibits include:

- A. Local Agency Project Prospectus
- B. Port’s Standard Agreement for Professional Services

There is no pre-proposal meeting scheduled for this project prior to submission of Statement of Qualifications. However, the site location is open to the public.

The Port reserves the right to retain the services of the successful firm(s) for any subsequent phases associated with this project.

B. PROJECT AND SCOPE OF WORK

The North Sumner Street Pedestrian Improvements Project establishes and improves safe non-motorized transportation infrastructure by extending ADA-compliant concrete sidewalk onto North Sumner Street from the crosswalk at the intersection of East 3rd Street and North Sumner Street (Colfax, WA), approximately 400 feet. PE is fully funded with federal funds using Toll Credits as local match. The selected Consultant shall provide services including:

- Design and engineering for a new concrete sidewalk, curb ramps, and defined entrance and exit point for future Port tenants and the adjacent K-12 school students, staff, and visitors
- Topographic surveying and/or property surveying, as required for design
- Geotechnical investigation, as required for design
- WSDOT/City of Colfax coordination
- Data collection and evaluation
- Preparation and processing of all necessary environmental documents to achieve environmental compliance
- Preparation of permit applications and acquisition of necessary permits

- Preparation of plans, specifications, and estimate (PS&E) and preparation of final bid documents to construct the Project utilizing the Port’s provided Invitation to Bid template

Public outreach, right-of-way (ROW) acquisition and certification services are not anticipated.

C. INFORMATION REQUIRED WITH SUBMISSION

The statement of qualifications must include but is not limited to key personnel, firm experience, ability to meet schedule, past performance, in-house expertise, familiarity with WSDOT/FHWA standards, and DBE approach and commitment.

1. Firm name, phone numbers, names of Principal-in-Charge and Project Manager, and number of employees in each firm.
2. Names of the owner of the firm (if sole proprietorship or LLC); or each Partner (if Partnership); or each Officer (if Corporation).
3. Names, addresses and telephone numbers of at least three references for which you or your firm have completed similar (in size and scope) services.
4. A summary of services currently being offered and a statement of experience and ability regarding the services being requested must be included.
5. Describe the team’s organizational structure and team lead’s role.
6. Describe methodology or approach for addressing the Scope of Work.
7. Describe your process, tools, and strategies to develop, evaluate, and present project alternatives
8. Disclosure of any claims, lawsuits or formal disputes over work or services previously or currently being performed.
9. Schedule for completing the services.

D. SOLICITATION SCHEDULE

The solicitation schedule is outlined below. The Port reserves the right to modify the schedule as circumstances warrant.

Description	Date, Time
Solicitation Open	Thursday, February 26, 2026
Last Day to Ask Questions	Monday, March 23, 2026
SOQs Due	Friday, March 27, 2026
Interviews (in-person)	Week of March 30, 2026
Notice of Selection	Monday, April 6, 2026
Execute Agreement	Thursday, April 30, 2026

E. QUESTIONS AND SUBMISSION OF PROPOSALS

Direct all questions on this Request for Qualifications to the project manager, Kara Riebold, at kara@portwhitman.com by Monday, March 23, 2026, by 12:00 p.m. PST. Questions received after the deadline will not be considered.

Statements of Qualifications shall be submitted as a single PDF with a maximum size of 20 mb, via email, with the subject: SOQ – Sumner Street Pedestrian Improvements, to the project manager, no later than 2:00 p.m. PST, Friday, March 27, 2026. Proposals shall not exceed twenty (20) pages, including attachments.

It is the Proposer's responsibility to confirm the Port's receipt.

The Port reserves the right to reject any and all proposals submitted. This RFQ and the firm's response, including all promises, warranties, commitments, and representations made in the successful proposal (as accepted by the Port), shall be binding and incorporated by reference in the Port's contract with the Consultant. The Port will not be liable for any costs incurred by Consultants in the preparation and presentation of proposals submitted in response to this RFQ.

F. REVIEW AND EVALUATION CRITERIA

Consultant selection will be according to Chapter 39.80 RCW and 2 CFR 200 and based on the evaluation and scoring of the qualifications. The consultant determined to be best qualified to perform the studies will be recommended to the Port Board of Commissioners for acceptance, subject to successful negotiation of a contract for professional services. The Contractor will be required to comply with all local, state and federal laws and regulations pertaining to equal employment opportunities.

Evaluation Rating: The Evaluation Criteria rating reflects the degree to which the written proposal meets or does not meet the minimum performance or capability requirements through an assessment of strengths, weaknesses, deficiencies, and risks of a proposal. Assessment of technical risk, which is manifested by the identification of weakness(es), considers potential for disruption of schedule, increased costs, degradation of performance, the need for increased oversight, or the likelihood of unsuccessful contract performance. The inclusion of Minority-Owned, Woman-Owned, Veteran-Owned and Small Business Enterprises are strongly encouraged.

Criteria	Maximum Points
Qualification of Proposed Project Manager and key personnel, including in-house expertise	10
Qualifications/Expertise of Firm	10
Ability to meet schedule	10
Approach to project	10
Familiarity with WSDOT/FHWA standards	10
Past Performance/References	10
Diverse Business Inclusion Strategies	Not Scored

Interviews: Based on submittal reviews, the top three (3) firms will be scheduled for online interviews. It is anticipated interview scheduling will begin within one week of the SOQ submittal closing date. Following interviews, the highest ranked consultant will be contacted for scope of service development for a not-to-exceed total contract amount/negotiated hourly rate Professional Services consultant agreement. It is anticipated this process will begin within one week following interviews.

Contractual Terms and Conditions: The successful firm will be required to execute a contract with the Port of Whitman County on its Professional Services Agreement form (Exhibit B). The Port's Professional Services Agreement may be modified at the Port's discretion or as negotiated between Port and selected Contractor.

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION

The Port in accordance with Section 504 of the Rehabilitation Act (Section 504) and the Americans with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability, in all of its programs and

activities. This material can be made available in an alternate format by emailing port@portwhitman.com or by calling 509-397-3791.

TITLE VI STATEMENT

The Port, in accordance with Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Projects funded wholly or in part by Federal appropriations must comply with Code of Federal Regulations; 24 CFR 570.502, 24 CFR 85.36, 2 CFR 200. All federally-funded projects will be held to federal Equal Employment Opportunity (EEO) requirements. The Port is an equal opportunity and affirmative action employer. Small, minority, and women-owned businesses are encouraged to submit bids.



Local Agency Federal Aid Project Prospectus

	Prefix	Route	()	Date	12/18/2025
Federal Aid Project Number				DUNS Number	0320379540000
Local Agency Project Number		(WSDOT Use Only)		Federal Employer Tax ID Number	91-0819937

Agency The Port of Whitman County		CA Agency Yes <input checked="" type="checkbox"/> No	Federal Program Title <input checked="" type="checkbox"/> 20.205 Other		
Project Title North Sumner Street Pedestrian Improvements			Start Latitude N 46.891472	Start Longitude W -117.360611	
			End Latitude N 46.8925	End Longitude W -117.359861	
Project Termini From-To North Sumner Street East 4th Street			Nearest City Name Colfax		Project Zip Code (+4) 99111-2133
Begin Mile Post N/A	End Mile Post N/A	Length of Project 400 Ft	Award Type <input checked="" type="checkbox"/> Local Local Forces State Railroad		
Route ID N/A	Begin Mile Point N/A	End Mile Point N/A	City Number 0230	County Number 38	County Name Whitman County
WSDOT Region Eastern Region	Legislative District(s) 9		Congressional District(s) 5		Urban Area Number N/A

Phase	Total Estimated Cost	Local Agency Funding	Federal Funds	Phase Start Date	
	(Nearest Hundred Dollar)	(Nearest Hundred Dollar)	(Nearest Hundred Dollar)	Month	Year
P.E.	50000		50000	01	2026
R/W	0		0	1	2027
Const.	130000	130000	0	1	2027
Total	50000		180000		

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width 35 Feet	Number of Lanes 2
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North Sumner Street is in good condition; 35 feet wide with 2 lanes. It has a sidewalk on the west side but does not have one on the east side of the street.

Description of Proposed Work

Description of Proposed Work (Attach additional sheet(s) if necessary)

See Attachment A.

Local Agency Contact Person Kara Riebold		Title Executive Director	Phone 509-288-0179	
Mailing Address 302 N. Mill St.		City Colfax	State WA	Zip Code 99111-2133
Project Prospectus	By _____ Approving Authority			
	Title			Date

Agency The Port of Whitman County	Project Title North Sumner Street Pedestrian Improvement	Date 12/18/2025
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Type of Proposed Work

Project Type (Check all that Apply)	Roadway Width 35 Feet	Number of Lanes 2
<input type="checkbox"/> New Construction <input type="checkbox"/> Path / Trail <input type="checkbox"/> 3-R <input type="checkbox"/> Reconstruction <input checked="" type="checkbox"/> Pedestrian / Facilities <input type="checkbox"/> 2-R <input type="checkbox"/> Railroad <input type="checkbox"/> Parking <input type="checkbox"/> Other <input type="checkbox"/> Bridge		

Geometric Design Data

Description	Through Route	Crossroad
Federal Functional Classification	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS <input type="checkbox"/> Major Collector <input checked="" type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input type="checkbox"/> Major Collector <input checked="" type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS
Terrain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	20	20
Design Speed	20	20
Existing ADT	N/A	N/A
Design Year ADT	2024	2024
Design Year	2024	2024
Design Hourly Volume (DHV)	N/A	N/A

Performance of Work

Preliminary Engineering Will Be Performed By Consultant	Others 100 %	Agency %
Construction Will Be Performed By N/A	Contract %	Agency %

Environmental Classification

<input type="checkbox"/> Class I - Environmental Impact Statement (EIS) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement <input type="checkbox"/> Class III - Environmental Assessment (EA) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreements	<input checked="" type="checkbox"/> Class II - Categorical Excluded (CE) <input type="checkbox"/> Projects Requiring Documentation (Documented CE)
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Environmental Considerations N/A

Agency The Port of Whitman County	Project Title North Sumner Street Pedestrian Improvement	Date 12/18/2025
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Right of Way

<input checked="" type="checkbox"/> No Right of Way Needed * All construction required by the contract can be accomplished within the existing right of way.	<input type="checkbox"/> Right of Way Needed <input type="checkbox"/> No Relocation <input type="checkbox"/> Relocation Required
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Utilities

No utility work required
 All utility work will be completed prior to the start of the construction contract
 All utility work will be completed in coordination with the construction contract

Railroad

No railroad work required
 All railroad work will be completed prior to the start of the construction contract
 All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

N/A

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

Remarks

N/A

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Date 01/20/2026 Agency The Port of Whitman County
 By Kara Z Rubold Mayor/Chairperson

Attachment A - Description of Proposed Work

The North Sumner Street Pedestrian Improvements Project establishes and improves safe non-motorized transportation infrastructure by extending ADA-compliant concrete sidewalk onto North Sumner Street from the crosswalk at the intersection of East 3rd Street and North Sumner Street, approximately 400 feet. The project includes design and engineering only at this time for a new concrete sidewalk, curb ramps, and defined entrance and exit points for future Port business tenants and the adjacent K-12 students and staff. PE is fully funded with federal funds using Toll Credits as local match.

PORT OF WHITMAN COUNTY
AGREEMENT FOR PROFESSIONAL SERVICES
(CHAPTER 39.80 RCW)

This **AGREEMENT FOR PROFESSIONAL SERVICES** ("Agreement") is made and entered into as of the later of the two signature dates below, by and between:

PORT OF WHITMAN COUNTY

Attn:
302 North Mill St.
Colfax, WA 99111

("Port")

AND

CONSULTANT NAME

Attn:
Address.
City, ST Zip

("Consultant")

Term of Contract: _____ **xx/xx/20xx – xx/xx/20xx** _____

- I. **SCOPE OF WORK:** Pursuant to specific task orders as described in the general provisions herein. **See attached Exhibit "A"**.
- II. **COMPENSATION:** The Consultant shall be compensated on the basis of hours worked and expenses incurred by its employees at the rates shown herein: **See attached Exhibit "B"**.
- III. **GENERAL PROVISIONS:** Work covered by this Agreement shall be performed in accordance with the General Provisions (which are attached hereto and form a part of this Agreement) and any attachments or schedules.
- IV. **ENTIRE AGREEMENT:** This Agreement supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later of the dates indicated below. By signing below, each signatory represents that he or she has authority on behalf of his or her respective party to enter into this agreement, which shall be binding upon the parties according to its terms.

[Signatures on following page]

CONSULTANT

PORT OF WHITMAN COUNTY

Signature: _____

Signature: _____

Name/Title: _____

Name/Title: Kara Riebold, Executive Director

Date: _____

Date: _____

GENERAL PROVISIONS

In consideration of the mutual covenants and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Scope of Work. The objective of this Agreement is the timely preparation, completion and/or delivery of the scope of work and/or deliverables described in the Task Order(s) issued pursuant to and governed by the terms of this Agreement. A copy of the Task Order form(s) to be executed by the parties is included as Exhibit "A," attached hereto and incorporated herein by this reference. Additional Task Orders and/or amendments to Task Orders shall be attached hereto as amendments and shall be made part of this Agreement upon approval as required herein. Any Task Order(s) issued by the Port prior to the termination date of this Agreement shall be governed by the terms of this Agreement until completed even if the Task Order work extends beyond the termination date of this Agreement.

1.1 Work covered by this Agreement shall be performed in accordance with the provisions and any attachments or schedules. Except as may be otherwise provided for herein, this Agreement may only be amended by the mutual consent of both parties hereto, in writing and signed by duly authorized representatives of both parties.

2. Term of Agreement. The Consultant shall not begin work under the Agreement or any Task Order until the Port has specifically authorized the Consultant to do so in writing. The time required for completion of all work under each Task Order and, if appropriate under a schedule for completion of phases of the work, shall be specified in each Task Order. The completion dates for Task Orders, or for phases of work under a Task Order, may be modified only upon written agreement of the parties hereto. The completion dates for Task Orders, or for phases of work under a Task Order may be, but are not required to be, extended in the event of a delay caused by change order work requested by the Port, or if the Consultant's work is delayed by unavoidable circumstances beyond the control of the Consultant and which the Consultant could not reasonably have anticipated. This Agreement may be extended for multiple terms at the sole discretion of the Port and subject to budget appropriations and Commission approval when required; if so extended, all of the terms and conditions herein shall apply to such extension.

3. Compensation and Payment. Unless a Task Order specifically establishes a fixed fee payment,

the Consultant shall be compensated on the basis of hours worked and expenses incurred by its employees at the rates shown in the attached Consultant's Fee Schedule, Exhibit "B". The Consultant shall receive no other payment for materials or disbursements unless expressly allowed by the Task Order. The Consultant shall not adjust the wage rates in Exhibit "B" without written authorization from the Port.

3.1 Consultant shall supply Port with a monthly invoice and written documentation, satisfactory to Port, for all amounts due under this Agreement, including but not limited to project budget status and a narrative progress description of work performed that is acceptable in form to the Port. All invoices submitted by Consultant to Port shall reference any applicable billing codes provided by Port to Consultant. Any applicable taxes shall be listed as separate line items on each Consultant invoice. All invoices and documentation may be reviewed and audited by Port and payment may be subject to review or audit. Subject to the preceding, payments shall be due net thirty (30) days of receipt of such invoice by Port. In no event shall the Port be charged interest on payments due under this Agreement. If required by Port, Consultant shall provide periodic forecasts of its total fees and costs incurred to date. With regard to time and materials Task Orders, only the reimbursable expenses specifically listed in the attached Exhibit "B" will be payable expenses under this Agreement.

3.2 If a Task Order specifies that the work is to be performed on a fixed fee basis, the Consultant shall be paid the amount of the fixed fee as consideration for full and satisfactory performance of the work regardless of the Consultant's cost to perform the work. The Port shall have sole authority for determining when all work has been satisfactorily performed by the Consultant. The fixed fee amount comprises all of the Consultant's payment for the work and includes without limitation all costs of salaries, overhead, non-salary expenses (including, but not limited to, travel, reproductions, telephone, supplies, and fees of outside consultants), as well as the Consultant's profits. The Consultant's payment for the work shall not exceed the specified amount unless first authorized by the Port in writing.

3.3 The Consultant shall obtain the prior

written approval of the Port for any charges for additional services by the Consultant, the additional services of others retained by Consultant, or the furnishing of additional supplies, materials or equipment. The Consultant shall not be entitled to compensation for any such additional charges incurred in violation of this paragraph.

4. **Payment of Subconsultants.** At the time of project completion, the Consultant agrees to certify to the Port that all employees (including without limitation any union fees and any benefit plans), and subconsultants have been paid in full. Final payment shall be preconditioned upon receipt of such certification by the Port; the Port may, in its sole discretion, withhold final payment until receipt of such certification. The Consultant shall be solely responsible for the performance and payment of any and all subconsultants. All such subconsultants shall possess all licenses and insurance as required by this Agreement and/or the laws of the State of Washington.

5. **Termination.**

5.1 This Agreement may be terminated by either party upon seven (7) days' written notice and opportunity to cure should the other party breach the terms of this Agreement through no fault of the terminating party. In the event the party that fails to perform is the Consultant, the determination of "fail to perform in accordance with its terms" shall be in the sole judgment of the Port. In the event the Port terminates the Consultant for breach, the Consultant shall be compensated for satisfactory services performed to the termination date as set forth in Paragraph 3, less any damages incurred by the Port as a result of such breach. In the event the Consultant terminates the Port for breach, the Consultant shall be compensated for satisfactory services performed prior to the termination date as set forth herein, but in no case shall Consultant be compensated for any work not performed as a result of the termination. In no case, however, shall such reimbursement exceed the agreed upon fee as approved and amended by the Port. The Port shall have sole authority for determining when all work has been satisfactorily performed by the Consultant. Any work product generated by the Consultant prior to such termination shall be the sole property of the Port, and the Consultant agrees to provide the Port with all such materials. If the accumulated payment made to the Consultant prior to notice of intent to terminate

exceeds the total amount that would be due as set forth herein above, then no final payment shall be due, and the Consultant shall promptly reimburse the Port for the excess paid.

5.2 Further, this Agreement may be terminated by the Port at any time for any reason whatsoever, at the sole discretion of the Port, with seven (7) days' written notice. If the Port terminates for convenience, the Port will pay Consultant for satisfactory services performed up to the termination date as set forth in Paragraph 3, but in no case shall Consultant be compensated for any work not performed as a result of the termination. If, after termination for the Consultant's breach it is determined that the Consultant has not breached the Agreement, the termination shall be deemed to have been effected for the convenience of the Port.

5.3 In addition to the above, the Port reserves the right to suspend all or any portion of the work and services for Consultant's default or Port's convenience. If the Consultant's work is delayed for more than thirty (30) calendar days due to circumstances for which the Consultant is responsible, the Port may find the Consultant in default and terminate the Task Order and/or this Agreement.

6. **Deviations from Scope of Work.** The Port may at any time issue written directions within the general scope of this Agreement. If any such direction causes an increase or decrease in the cost of this Agreement or otherwise affects any other provision of this Agreement, the Consultant shall immediately notify the Port and take no further action concerning those written directions until such time as the parties have executed a written change order. No additional work shall be performed or charges incurred unless and until the Port approves in writing the change order and the increased cost thereof. Any work done in violation of this paragraph shall be at the sole expense of the Consultant. Additionally, the Port reserves the right to modify the amount spent for identified project tasks within the scope of work, provided that the Contract Amount, as may be modified under Paragraph 3.3, is not exceeded.

6.1 The Consultant shall make all revisions and changes in the completed work under this Agreement as are necessary to correct the Consultant's, and its subconsultants', errors or omissions without additional compensation from the Port.

7. **Insurance.** Consultant, concurrently with the execution of this Agreement, shall provide the Port with evidence that Consultant has obtained and is maintaining the insurance listed as follows:

7.1 Workers' Compensation Insurance with statutory limits as required by law.

7.2 Employers' Liability Insurance (bodily injuries) with a limit of at least One Million Dollars (\$1,000,000) per occurrence with an insurance company authorized to write such insurance in all states where the Consultant will have employees located in the performance of its work covering its common law liability to such employees.

7.3 Commercial General Liability ("CGL") Insurance with limits of at least Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate and Automobile Liability Insurance covering any auto or all owned, hired, and non-owned autos used by or on behalf of Consultant with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and/or property damage. "Auto" carries the same meaning as found in ISO Form CA 00 01. The CGL policy shall be written on an occurrence basis with the insurer's duty to defend outside of the limits of the policy, meaning that the defense obligation does not erode the liability limits. The CGL policy shall provide coverage for damage to the Port's property caused by Consultant.

7.4 Professional Liability Insurance covering Errors and Omissions of the Consultant in the amount of not less than Two Million Dollars (\$2,000,000) per occurrence or claim, Two Million Dollars (\$2,000,000) aggregate.

7.5 Except with regard to the Professional Liability Insurance and Workers' Compensation Insurance, each of the policies required herein shall name the Port as an additional insured by way of a policy endorsement. Furthermore, each policy of insurance required herein shall (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to the Port except upon forty-five (45) days' prior written notice from the insurance company to the Port; (iii) contain an express waiver of any right of subrogation by the insurance company against the Port and its elected officials, employees, or agents; (iv) expressly provide that the defense and indemnification of the Port as an "additional insured" will not be effected by any act or omission

by Consultant which might otherwise result in a forfeiture of said insurance; (v) contain a separation of insureds provision such that the policy applies separately to each insured that is subject of a claim or suit; and (vi) not contain a cross-claim, cross-suit, or other exclusion that eliminates coverage by one insured against another.

7.6 With regard to the Professional Liability Insurance, the policy may be issued on a claims made form or an occurrence form. If written on a claims made form, the following additional terms apply to the policy: (i) coverage shall be maintained for a minimum of six (6) years after Contract completion, with evidence of the same provided to the Port annually, (ii) the Retroactive Date must be shown and must be before the date of this Contract or commencement of Work hereunder, (iii) if the policy is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the date of the Contract or commencement of Work hereunder, the Consultant must purchase "extended reporting" coverage for a minimum of six (6) years after completion of the Contract work.

7.7 The Consultant shall furnish the Port with copies of Certificates of Insurance evidencing policies of insurance required herein. Except as otherwise specified herein, the Consultant and its subconsultants shall maintain these policies as identified above for the term of this Agreement and for a period of one year thereafter. The Port's failure to request such certificates shall not relieve the Consultant of the obligation to provide them.

7.8 The Consultant shall maintain the insurance in effect at all times that it is performing work under this Agreement. Failure to obtain and/or maintain such insurance shall be grounds for the Port to find the Consultant in default and terminate the Agreement accordingly. Alternatively, the Port may at its option purchase such insurance and deduct the reasonable expense therefore from payments made to or owing to the Consultant.

7.9 If the Consultant maintains broader coverage and/or higher limits than the minimums set forth above, the Port requires and shall be entitled to such broader coverage and/or higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage listed herein shall be available to the Port.

7.10 If any Excess or Umbrella Insurance policies are used to meet the limits of liability required herein, said policies shall be “following form” of the underlying policy coverage, terms, conditions, and provisions, and shall meet all of the liability insurance requirements stated herein, as evidenced by a Following Form Endorsement. Such Excess or Umbrella Insurance carrier shall have a duty to defend the Port outside of the policy limits. No insurance policies maintained by the additional insureds, whether primary or excess, shall be called upon to contribute to a loss until Consultant’s primary and excess liability policies are exhausted.

8. **Consultant Not an Agent or Employee of the Port.** In performing work and services hereunder, the Consultant and Consultant's employees, agents, and representatives shall be acting as independent Consultants and shall not be deemed or construed to be partners, employees or agents of the Port in any manner whatsoever. No employee of the Consultant shall be considered an employee of the Port even while performing work required under this Agreement. Furthermore, the Consultant shall not hold itself out as, nor claim to be, an officer or employee of the Port by reason hereof and will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Port.

9. **Conflict of Interest.** Consultant covenants that it presently has no interest and shall not acquire an interest, directly or indirectly, which would conflict in any manner or degree with its performance under this Agreement. Consultant further covenants that no person having such interest shall be employed by it or any of its subconsultants.

10. **Compliance with Applicable Law.** The Consultant shall comply with all the Port’s resolutions and all federal, state, and local laws, regulations and ordinances that are applicable to the work performed pursuant to this Agreement. Both parties mutually agree to re-negotiate scope, budget, and schedule should a change in any of the applicable Port’s resolutions, federal, state or local laws, regulations or ordinances during the performance of the work affect the cost of performing the work. The Consultant shall register (and shall require the same of all subconsultants), as required by RCW 23B.15.010, to do business in the State of Washington and provide proof of the same to the Port.

11. **Indemnification.** The Consultant shall defend (with legal counsel reasonably satisfactory to the Port), indemnify and hold the Port, its elected officials, agents and employees (collectively “Port”) harmless from and against all liabilities, obligations, fines, claims, damages, penalties, lawsuits, governmental proceedings, judgments, costs and expenses (including, without limitation, all attorneys’ fees, costs and expenses of litigation):

- Arising out of any negligent act or omission of Consultant, its directors, officers, subconsultants, agents and/or employees (collectively “Consultant”) in connection with the work performed pursuant to this Agreement; provided, however, that in the event of concurrent negligence of the Consultant and the Port, then this defense and indemnification shall apply only to the extent of the Consultant’s negligence; and/or
- Arising from a breach of this Agreement by Consultant; and/or
- Arising out of or due to any failure on the part of Consultant to perform or comply with any rule, ordinance or law to be kept and performed.

The Port will inform Consultant of any such claim or demand that alleges liability based in whole or in part on any act or omission of Consultant, its directors, officers, agents, or employees. Thereafter the Consultant shall (i) reasonably cooperate in the defense of such claim and (ii) pay the Port’s defense of such claim as incurred, whether or not such claim is ultimately successful. In this regard, the Port will reasonably cooperate with Consultant in allowing Consultant to jointly select, with the Port, attorneys to defend the Port and Consultant provided that Consultant confirms its obligation to pay the Port’s defense costs.

11.1 In the event of concurrent negligence by the Port and Consultant, then at the conclusion of the action (e.g., judgment, arbitration award or settlement), the attorneys’ fees and costs incurred in defending the Port shall be apportioned to the parties based on their respective fault as provided by RCW 4.24.115.

11.2 The foregoing indemnification obligation shall include, but is not limited to, all claims against the Port by an employee or former employee of the Consultant or any subconsultant or service provider. For this purpose, the Consultant expressly waives, as respects the Port only, all immunity and limitation on liability under any

industrial insurance Act, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim. **BY INITIALING BELOW THE PORT AND CONSULTANT CERTIFY THE WAIVER OF IMMUNITY SPECIFIED BY THIS PROVISION WAS MUTUALLY NEGOTIATED.**

Consultant

Port

12. **Work Product Confidentiality.** Any reports, documents, questionnaires, records, information or data given to or prepared or assembled under this Agreement which the Port requests to be kept confidential shall not be made available by the Consultant to any individual or organization without prior written approval of the Port except as may be ordered by a court of competent jurisdiction. No reports, records, questionnaires, or software programs provided by the Port or other documents produced in whole or in part by the Consultant under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

13. **Public Disclosure Request.**

Correspondence, reports, and other written work product will be generated during the course of the relationship created by this Agreement, and third parties may request such information pursuant to the Washington State Public Disclosure Act (RCW 42.17.250 *et. seq.*). The parties agree that in the event that such a request is filed, the party with whom the request is filed will promptly notify all other parties to this Agreement. The parties further agree that they will not disclose any such requested material until at least ten (10) business days after providing notification to all other parties to this Agreement. The intent of this clause is to provide all parties the opportunity to seek injunctive relief so as to protect the vital functions of those entities.

14. **Plans, etc. Property of Port.** All work performed under this Agreement is work for hire. All deliverables, including but not limited to original plans, drawings and specifications, prepared by the Consultant and any and all sub-consultants for the Port and funded by the Port are and shall remain the property of the Port whether or not the

project for which they are made is executed. This shall not apply to proprietary software or documentation that may be provided to the Port and that was developed independent of funding by the Port. The Consultant assumes no liability for any use of the drawings and specifications other than that originally intended for the project. Originals, including electronic forms of the data prepared by the Consultant and funded by the Port, shall become the property of the Port. No reports, records, questionnaires, software programs provided by Port or other documents produced in whole or in part by the Consultant under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant. The Consultant's work shall not infringe on any copyright, patent, trade secret, or other proprietary rights held by any third party.

15. **Electronic File Compatibility.** All electronically transmitted output must be compatible with existing Port software and shall be provided to the Port in an appropriate electronic format. Consultants shall check with the Port for software application, system compatibility, and preferred file type. All CAD deliverables shall be consistent with the Port's standard CAD layering system, as provided by the Port to the Consultant.

16. **Non-Discrimination.** In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, or being handicapped, a disadvantaged person, or a disabled or Vietnam-era veteran or a member of any other protected class. The Consultant shall take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex, national origin, age, marital status, or being a handicapped or disadvantaged person or a disabled or Vietnam-era veteran or a member of any other protected class.

17. **Federal Restrictions on Lobbying.**

Consultant certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 *et seq.*, no Federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an 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 any Federal contract, grant, loan, or cooperative agreement.

18. **Federal Debarment and Suspension.** The Consultant certifies, that neither it nor its “principals” (as defined in 49 CFR.29.105) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Consultant will include this clause without modification in all lower tier transactions, solicitations, proposals, agreements, contracts, and subcontracts. Where the offeror/consultant or any lower tier participant is unable to certify to this statement it shall attach an explanation to this Agreement. The Port reserves the right to require Consultant to replace a subconsultant or lower tier participant who cannot meet the foregoing certification requirement.

19. **Subletting or Assigning of Agreement.** The Consultant shall not sublet or assign any of the work covered by this Agreement without the express written consent of the Port.

20. **Notices.** All notices and payments hereunder may be delivered or mailed to the addresses listed above. If delivered by messenger or courier (including overnight air courier), they shall be deemed delivered when received at the street address. All notices and payments mailed, whether sent by regular post or by certified or registered mail, shall be deemed to have been given on the second business day following the date of mailing, if properly mailed to the mailing addresses provided above, and shall be conclusive evidence of the date of mailing. The parties may designate new or additional addresses for mail or delivery by providing notice to the other party as provided in this section. The address for delivery of notices and payments are as set forth in the introductory paragraph of this Agreement.

21. **Review of Title Documents.** Prior to the execution or recordation of any documents effecting title to any property, said document shall be reviewed and approved by the Port. Consultant shall not execute or record (or make to be executed or recorded) any such document prior to the Port’s review and approval.

22. **Jurisdiction.** This Agreement is made and

delivered in the State of Washington and shall be construed and enforced in accordance with the laws thereof. Jurisdiction and venue of any dispute hereunder shall be solely and exclusively in the Superior Court of the State of Washington in and for Whitman County. The parties expressly and irrevocably waive any right they may have to Federal court jurisdiction or a trial by jury. In the event of a dispute arising out of or under this Agreement, the substantially prevailing party shall be entitled to its reasonable attorneys’ fees and costs.

23. **Pollution.** Port acknowledges that the Consultant is not responsible for the creation or presence of contamination or pollution, if any, at the property except to the extent that such a discharge, release or escape is caused by the Consultant’s acts or omissions. For the purpose of this clause, contamination or pollution shall mean the actual or alleged existence, discharge, release or escape of any irritant, pollutant, contaminant, or hazardous substance into or upon the atmosphere, land, groundwater, or surface water of or near the property. The Consultant will promptly notify the Port of contamination or pollution, if identified. Notwithstanding the foregoing, the Port does not waive any cause of action for damages resulting from the Port’s reliance on any misrepresentation (made either knowingly or negligently) by the Consultant with regard to the presence of any contamination or pollution.

24. **Consultant Work.** Consultant’s work shall meet or exceed the standard for similar services performed by similarly licensed professionals performing work in Whitman County, Washington.

25. **Survival.** All obligations of Consultant, as provided for in this Agreement, shall not cease upon the termination of this Agreement and shall continue as obligations until fully performed. All clauses of this Agreement which require performance beyond termination shall survive termination.

26. **Entire Agreement.** This is the entire agreement between the parties. There is no other oral or written understanding between the parties concerning this matter. The Consultant specifically understands that no Port employees other than the project manager or his/her supervisor are authorized to direct the work of the Consultant.

27. **Signing Authority.** Anyone signing this

Agreement by said signature certifies that he/she has the authority to execute said document on

behalf of the Consultant and that his/her signature is binding upon the firm or corporation.

EXHIBIT A

TASK ORDER FORM

PLEASE SUBMIT ON COMPANY LETTERHEAD

Port of Whitman County
Agreement for Professional Services Dated _____, 20__
Task Order # __-__

PROJECT NAME: _____

This work order is issued pursuant to the Agreement for Professional Services #____-____-____ dated xx/xx/xx between the Port of Whitman County and _____ whose address is _____ . Unless otherwise specified below, the performance of services hereunder and the payment therefore shall be subject to the terms and conditions of said Agreement.

(A) **Scope of Work:**

(B) **Deliverables:**

(C) **Schedule:**

(D) **Fee Basis:**

Services to be billed on a [Time and Materials Basis] [Fixed Fee Basis], not to exceed \$X,XXX as summarized below, and per the attached cost breakdown.

Task	Not-To-Exceed Dollar Amount
1.0	\$X,XXX
2.0	\$X,XXX
3.0	\$X,XXX
Reimbursable Expenditures	\$X,XXX
TOTAL	\$X,XXX

[Signatures on following page]

CONSULTANT

PORT OF WHITMAN COUNTY

Signature: _____

Signature: _____

Name/Title: _____

Name/Title: Kara Riebold, Executive Director

Date: _____

Date: _____

EXHIBIT B

CONSULTANT'S FEE SCHEDULE

[Exhibit B should set forth the agreed upon schedule of hourly rates and other charges and disbursements the Port is agreeing to pay the consultant. This should identify all job classifications, reimbursable expenses, and sub-consultant mark-ups.]