AM NO. 13-139 (C8)

MEMO TO: City Council

FROM: John Marchione, Mayor

DATE: August 20, 2013

SUBJECT: **APPROVAL OF CONSULTANT AGREEMENT FOR ENGINEERING SERVICES, 166TH AVENUE NE RECHANNELIZATION, PROJECT NO. 20021313**

I. RECOMMENDED ACTION:

Approve the attached Consultant Agreement with David Evans & Associates, Inc., of Bellevue, Washington, for engineering design services for the 166th Avenue NE Rechannelization, Project No. 20021313, in an amount not to exceed $139,776, and authorize the Mayor to sign the Agreement.

II. DEPARTMENT CONTACT PERSONS:

Ron Grant, Interim Public Works Director	425-556-2742
Mike Paul, Interim Assistant Public Works Director	425-556-2721
Lei Wu, Project Manager	425-556-2749

III. DESCRIPTION:

166th Avenue NE is a major corridor between Downtown Redmond and Education Hill. It is also an important corridor for residents on Education Hill to access intra-neighborhood destinations such as schools, churches, and parks. To make 166th Avenue NE a complete street and address safety concerns, the Comprehensive Plan and the Transportation Master Plan (TMP) call for the conversion of 166th Avenue NE from four lanes to three lanes.

The community has been divided in supporting the conversion of 166th Avenue NE from four to three lanes. Most of the concerns are about potential negative impacts to vehicular travel including congestion and delay to side street vehicles waiting for gaps to turn onto the main corridor. Other elements needing further evaluation include the NE 85th Street/166th Avenue NE intersection, locations for safe pedestrian crossings along the corridor, and how to accomodate potential installation of school zones.

At the November 27, 2012, study session, the City Council directed staff to conduct an engineering study to develop and evaluate options that address outstanding concerns and technical issues related to this project.

This consultant agreement provides for engineering services to develop and evaluate conceptual design alternatives that address the safety and operational needs of 166th Avenue NE between NE 85th Street and NE 100th Street. After selection of a preferred alternative, the design will be further developed to the 30% design level along with a cost estimate and implementation plan.

Following the completion of the preliminary design, the City has the option of supplementing the agreement to provide for final design and construction services.

Schedule

Date	***Milestone***
August 20	Consultant Agreement approved
October	Public open house
December 3	Council study session
December 31	Complete preliminary design/begin final design

Public Outreach

The public outreach process will involve the community and focus on discussing impacts and benefits of design alternatives. Outreach efforts will include newsletters, a public open house, and other activities.

Consultant Selection

The City solicited proposals from three firms on the Shared Procurement Portal and received three proposals. A staff team from Public Works and Planning selected David Evans & Associates Inc. as the most qualified and responsive consultant for this study. Negotiations were then held to finalize the scope of work and to determine a fair and reasonable fee.

IV. IMPACT:

A. Service/Delivery: This project will improve safety and traffic operations on the 166th Avenue NE corridor.

B. Fiscal:

Costs:

City Administration	$ 51,000
Consultant – David Evans & Associates Inc.	139,776
Total	**$190,776**

Funding:

Targeted Safety Improvement Program	$100,000
Transportation CIP	90,776
Total	**$190,776**

V. ALTERNATIVES:

The City Council may choose not to approve the Consultant Agreement. This action would adversely affect the City's ability to complete the preliminary design in 2013.

VI. TIME CONSTRAINTS:

Preliminary design work is scheduled to be completed in December 2013. This allows time to complete the final design in time for construction to begin in 2014. If the City decides to move forward with construction in 2014, this agreement includes contingency funds that will allow design work to continue until a supplemental agreement for final design services is executed in early 2014.

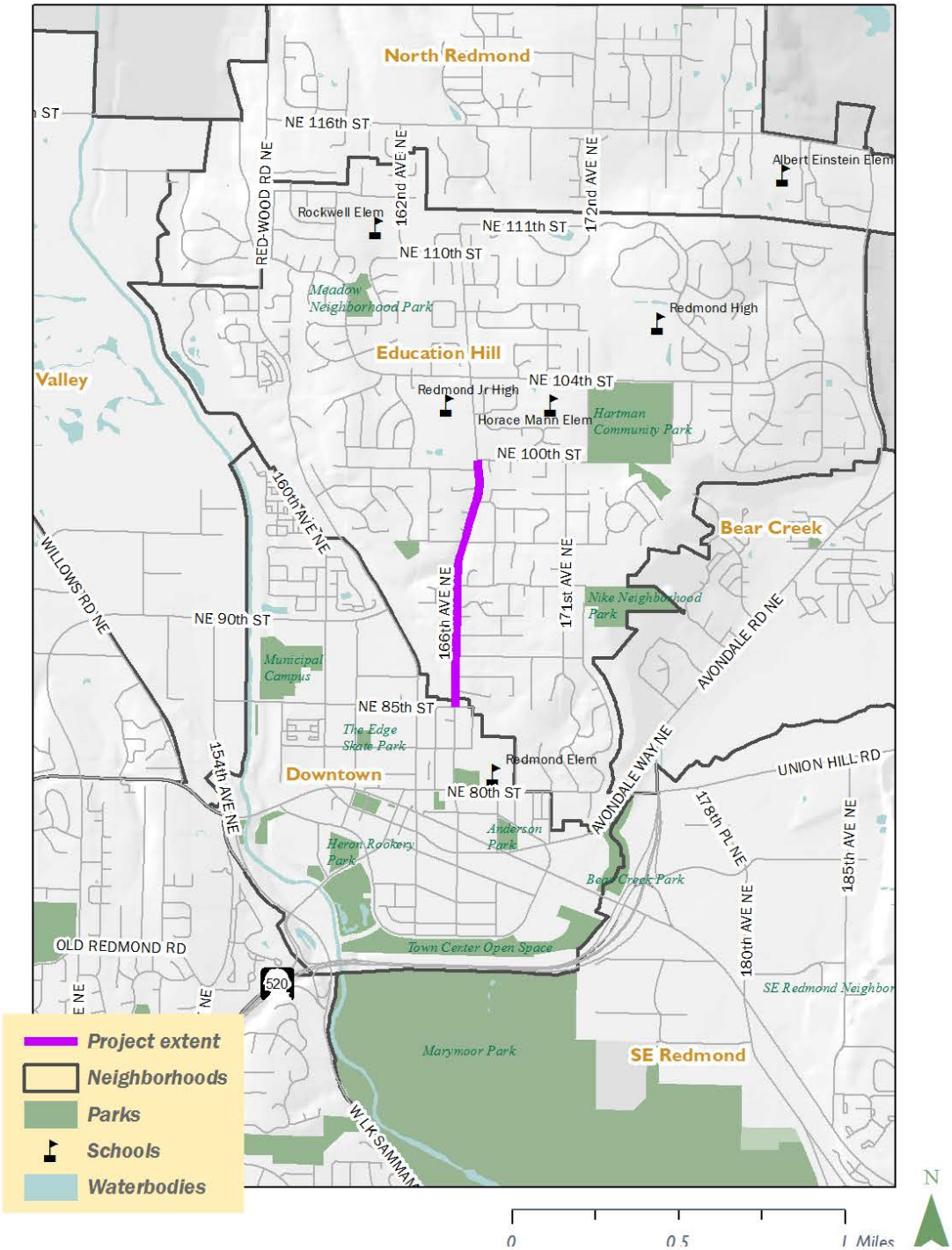
VII. LIST OF ATTACHMENTS:

A. Project Vicinity Map
B. Consultant Agreement

/s/ 8/8/2013
Ronald D. Grant, Interim Director of Public Works Date

Approved for Council Agenda /s/ 8/9/2013
John Marchione, Mayor Date

Attachment A: Project Vicinity Map
166th Ave NE Rechannelization



Attachment B

CONSULTANT AGREEMENT

PROJECT TITLE 166th Avenue NE Rechannelization Study/Conceptual Design and Optional Final Design/Construction Services	WORK DESCRIPTION Assess needs, develop preliminary design options and evaluation, and develop the conceptual engineering design, cost estimate, and implementation of the preferred option
PROJECT NO. 20021313.01.01.02	
REDMOND BUSINESS LICENSE NO. RED00009977	CONSULTANT/ADDRESS/TELEPHONE David Evans & Associates Inc 415 118th Ave SE Bellevue, WA 98005 (425) 519-6500
FEDERAL I.D. NO. 93-0661195	
MAXIMUM AMOUNT PAYABLE $139,776	COMPLETION DATE March 31, 2014

Index of Exhibits

Exhibit “A” – Scope of Work
Exhibit “B” – Payment (Negotiated Hourly Rate)
Exhibit “C” – Consultant Fee Determination
Exhibit “D” – Subcontracted Work/Fee Determination
Exhibit “E” – Title VI Assurances

THIS AGREEMENT, made and entered into this _____ day of _____, _____, between the City of Redmond, Washington, hereinafter called the "CITY", and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the CITY desires to accomplish the above referenced project; and

WHEREAS, the CITY 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, the 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 the CITY.

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 work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II
SCOPE OF WORK

The Scope of Work and project level of effort for this project is detailed in Exhibit "A" attached hereto, and by this reference made a part of this AGREEMENT.

III
GENERAL REQUIREMENTS

All aspects of coordination of the work of this AGREEMENT, with outside agencies, groups or individuals shall receive advance approval by the CITY. Necessary contacts and meetings with agencies, groups or individuals shall be coordinated through the CITY. The CONSULTANT shall attend coordination, progress and presentation meetings with the CITY or such Federal, Community, State, City or County officials, groups or individuals as may be requested by the CITY. The CITY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation.

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

All reports, plans & specifications, and other data furnished to the CONSULTANT by the CITY shall be returned. 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 this PROJECT and are property of the CITY. Reuse by the

CITY or by others acting through or on behalf of the CITY 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 work under the terms of this AGREEMENT until authorized in writing by the CITY. All work under this AGREEMENT shall be completed by the date shown in the AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays beyond the control of the CONSULTANT.

V
PAYMENT PROVISIONS

The CONSULTANT shall be paid by the CITY for completed work and services rendered under this AGREEMENT as provided in Exhibit "B" attached hereto, and by this reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work". The CONSULTANT shall conform with all applicable portions of 48 CFR 31.

VI
SUBCONTRACTING

The CITY permits subcontracts for those items of work as shown in Exhibit "D" attached hereto and by this reference made a part of this AGREEMENT.

Compensation for this subconsultant work shall be based on the cost factors shown in Exhibit "D".

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

All reimbursable hourly rates and direct non-salary costs for the subconsultant shall be substantiated in the same manner as outlined in Section V. All subcontracts shall contain all applicable provisions of this AGREEMENT.

With respect to subconsultant payment, the CONSULTANT shall comply with all applicable sections of the Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

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

VII
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, the CITY shall have the right to annul this AGREEMENT without liability, or in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the CITY, 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 work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

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

VIII
NONDISCRIMINATION

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:

Title VI of the Civil Rights Act of 1964
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)

Federal-aid Highway Act of 1973
(23 USC Chapter 3 Section 324)

Rehabilitation Act of 1973
(29 USC Chapter 16 Subchapter V Section 794)

Age Discrimination Act of 1975
(42 USC Chapter 76 Section 6101 et. seq.)

Civil Rights Restoration Act of 1987
(Public Law 100-259)

American with Disabilities Act of 1990
(42 USC Chapter 126 section 12101 et. seq.)

49 CFR Part 21

23 CFR Part 200

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 "E" attached hereto and by this reference made a part of this AGREEMENT, and shall include the attached Exhibit "E" in every subcontract, 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 CITY to terminate this AGREEMENT at any time upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the CITY other than for default 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 nonsalary costs incurred at the time of termination of the AGREEMENT.

No payment shall be made for any work 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 herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the CITY for any excess paid.

If the services of the CONSULTANT are terminated by the CITY 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 the CITY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the CITY at the time of termination; the cost to the CITY of employing another firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the CITY of the work performed at the time of termination.

Under no circumstances shall payment made under this subsection exceed the amount which would have been made using the formula set forth above.

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 it's employee's default or negligence, the termination shall be deemed to be a termination for the convenience of the CITY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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 work under the terms of the AGREEMENT, if requested to do so by the CITY. The subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the CITY, if the CITY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the CITY'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 work by the CITY shall not constitute a waiver by the CITY 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 work required of it by the CITY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X
CHANGES OF WORK

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

XI
DISPUTES

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

XII
VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior court of the State of Washington, situated in King 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 King County.

XIII
LEGAL RELATIONS

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

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

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

The CONSULTANT shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees against the CITY 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.

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

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

Insurance Coverage

A. Worker's compensation and employer's liability insurance as required by the State of Washington.
B. Commercial general liability and property damage insurance in an amount not less than one million dollars ($1,000,000) per occurrence/two million dollars ($2,000,000) aggregate for bodily injury, including death and property damage.
C. Professional liability insurance in the amount of $1,000,000 or more against claims arising from the performance of professional services under this contract.
D. Vehicle liability insurance for any automobile used in an amount not less than a one million dollar ($1,000,000) combined single limit.

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

The additional insured endorsement shall provide that to the extent of the CONSULTANT's negligence, the CONSULTANT's insurance shall be primary and non-contributing as to the CITY, and any other insurance maintained by the City shall be excess and not contributing insurance with respect to the CONSULTANT's insurance.

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 the CITY.

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

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

XIV
EXTRA WORK

The CITY 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 work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the CITY 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 thirty (30) days from the date of receipt of the written order. However, if the CITY decides that the facts justify it, the CITY 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.

XV
ENDORSEMENT OF PLANS

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

XVI
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.

XVII
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

By: _____

Title: _____

CITY OF REDMOND

By: _____
John Marchione, Mayor

ATTEST:_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A

SCOPE OF WORK

166th Avenue NE Corridor Rechannelization Study/Conceptual Design (NE 85th Street to NE 100th Street)

Table of Contents

ELEMENT 1.0 PROJECT DESCRIPTION, DESIGN CRITERIA, AND DELIVERABLES..... 3
1.1 Project Description 3
1.2 Design Criteria 3
1.3 Project Deliverables Furnished by the CONSULTANT..... 3
1.4 Responsibilities and Services Provided by the CITY 3
1.5 Project Assumptions..... 4

ELEMENT 2.0 PROJECT MANAGEMENT AND QUALITY CONTROL..... 4
2.1 Project Management..... 4
2.2 Update the Schedule..... 4
2.3 Monthly Progress Reports and Invoices..... 4
2.4 Quality Assurance/Quality Control Review..... 5

ELEMENT 3.0 ALTERNATIVE DEVELOPMENT AND EVALUATION..... 5
3.1 Data Collection..... 5
3.2 Traffic Forecasts (by RST International)..... 5
3.2 Alternatives Development..... 6
3.3 Traffic Operational Analysis..... 6
3.4 Collision History Evaluation..... 7

ELEMENT 4.0 COMMUNITY INVOLVEMENT..... 7
4.1 Project Open House..... 7
4.2 Respond to Comments 8

ELEMENT 5.0 FURTHER ANALYSIS/PREFERRED ALTERNATIVE..... 8

ELEMENT 6.0 PREPARE DESIGN REPORT 8

ELEMENT 7.0 CITY COUNCIL MEETING..... 9

ELEMENT 8.0 CONCEPT ESTIMATE AND 30% PLANS..... 9
8.1 Concept Level Cost Estimate 9
8.2 Design Survey (Optional)..... 9
8.3 30% Plans (Optional) 9

ELEMENT 9.0 FUNDING AND IMPLEMENTATION PLAN (OPTIONAL)..... 9
9.1 Implementation Plan 9

ELEMENT 10.0 100% PLANS SPECIFICATIONS AND ESTIMATES (OPTIONAL) 10
10.1 100% Plans Specifications and Estimates..... 10

ELEMENT 11.0 CONSTRUCTION SUPPORT (OPTIONAL)..... 10
11.1 Construction Support 10

Element 1.0 Project Description, Design Criteria, and Deliverables

1.1 Project Description

In Redmond, 166th Avenue NE is a major corridor between Downtown and Education Hill. It is also an important corridor for residents in Education Hill to access intra-neighborhood destinations such as schools. To make 166th Avenue NE a safe complete street, the City of Redmond (CITY) now desires to engage the community in developing a preferred design for the conversion 166th Avenue NE from four lanes to three lanes, in accordance with the Comprehensive Plan and the Transportation Master Plan (TMP).

However, the lane conversion has raised some community concerns about potential negative impacts to vehicular travel such as congestion along 166th Avenue NE and delay to side street vehicles waiting for gaps to turn onto 166th Avenue NE. Similar community concerns have been expressed on other rechannelization projects (road diets) on other segments of this corridor.

The services included in this scope of work are intended to gain consensus on a preferred alternative and to move the project through conceptual design with a cost estimate suitable for TIB or other grant applications.

1.2 Design Criteria

The design and PS&E will be based on the requirements of the Transportation Master Plan, City of Redmond Community Development Guide, Standard Specifications and Details, and the North Redmond Neighborhood Plan. In addition, the following documents will be used as reference guides: WSDOT Design Manual, Transportation Improvement Board Policy, Local Agency Guidelines, MUTCD, FHWA, and AASHTO design policy.

1.3 Project Deliverables Furnished by the CONSULTANT

The CONSULTANT shall create, provide, and/or deliver to the CITY the following documents and products as part of this agreement and as more fully defined in the sections below. CITY review sets will be returned with each subsequent revisions illustrating how each review comment was addressed.

- A complete streets needs assessment.
- Provide travel demand forecast data for the future, and coordinate with RST International.
- An alternatives development process including cross sections, intersection treatments, pedestrian crossing locations and treatments, and cost estimates.
- A thorough alternatives evaluation.
- A conceptual design cost estimate, and an implementation plan for the preferred alternative.
- A final report.
- Assistance with City Council meetings and public outreach efforts including providing technical information and graphics.
- Communication tools such as an evaluation summary, graphics, or a brochure to convey the results of the study to the community.
- Optional final design and construction services.

1.4 Responsibilities and Services Provided by the CITY

The CITY will:

- Provide timely, clear direction to CONSULTANT.
- Provide land use vision and data relative to Education Hill and the TMP.
- Provide current traffic data and historical data.
- Provide existing conditions information including aerial photos and GIS data.

- Provide existing studies and plans, specifications, and estimates (PS&E) completed for similar city lane conversion projects.
- Lead public outreach efforts including notification, organization, advertisement, communications, and community meetings.
- Maintain key milestone schedules within the CITY's control.

1.5 Project Assumptions

- All drawings will be prepared in AutoCAD format and will be drawn at a scale of one inch equals 40 feet (half-size plans 11"x17").

Element 2.0 Project Management and Quality Control

This element and the remainder of the elements in this Scope of Services are activities required for the completion of the 166th Avenue NE Corridor Rechannelization Study (PROJECT).

2.1 Project Management

Direction of the CONSULTANT staff and review of their work over the course of the PROJECT shall be provided. This work element includes preparing monthly progress reports including the status of individual work elements, number of meetings attended, outstanding information required, and work items planned for the following month. It is assumed that all meetings with CITY staff will occur in the CITY offices.

Periodic monitoring of the PROJECT budget will occur over the course of the PROJECT. Assessment of current PROJECT status, as well as projections of future status, shall be developed by the CONSULTANT. This work element is intended to help monitor costs and budgets, and to propose corrective actions. These actions could include formal requests for budget increases, or scope modifications or reductions.

Drawings and documents received and generated over the course of the PROJECT require review, coordination, and file management. This information will be filed to facilitate ready and selective retrieval. The status of requested information will also be maintained.

Project management and meeting time for RST International will be included in the subconsultant agreement.

It is assumed that the duration of the Project Management will be approximately five (5) months.

2.2 Update the Schedule

The CONSULTANT and the CITY will jointly develop an overall project schedule showing all major and support activities. The CONSULTANT shall communicate every two weeks to reflect the current status of the PROJECT.

2.3 Monthly Progress Reports and Invoices

Monthly progress reports shall be prepared by the CONSULTANT in a format agreed to by the CITY's Project Manager. Monthly invoices will be prepared by the CONSULTANT for work activities for the prior month. Invoices will include back-up material for all expenses and will show approved budget and amount expended to date. Each month's progress report and invoice shall be submitted together to the CITY.

2.4 Quality Assurance/Quality Control Review

This work element is for QA/QC review of CONSULTANT deliverables by a designated QA/QC staff member of the CONSULTANT team. The review will cover documents; reports; plans, specifications, and cost estimates; and pertinent information on an ongoing basis. The program entails the periodic review of study criteria, design, and assumptions, as well as concepts and presentation of product format; and assures that the overall project objectives are being fulfilled.

Deliverables: Schedule, biweekly schedule updates, six monthly progress reports and invoices.

Element 3.0 Alternative Development and Evaluation

The CITY has created a city-wide traffic model which will be the basis of traffic analysis for the PROJECT. Modeling has been performed by the CITY's on-call consultant RST International and validated for the year 2013, and projections to 2030 have been confirmed by the CITY.

3.1 Data Collection

The CONSULTANT shall request the following data from the CITY:

- Traffic Data - intersection turning movement counts in the AM and PM peak hours at the studied intersections on 166th Avenue NE between NE 85th Street and NE 100th Street; any available historical daily traffic counts, traffic video counts, and traffic counts during school morning starting periods along 166th Avenue NE between NE 85th Street and NE 100th Street.
- Speed data along 166th Avenue NE between NE 85th Street and NE 100th Street.
- Collision History - crash history data for 166th Avenue NE between NE 85th Street and NE 100th Street for the most recent three-year period.
- Public comments and concerns regarding safety and traffic issues.

The CONSULTANT shall obtain the following data

- Intersection turning movement forecast volumes in the 2030 No-Build and Build AM and PM peak hours for the studied intersections on 166th Avenue NE between NE 85th Street and NE 100th Street.

3.2 Traffic Forecasts (by RST International)

DEA will coordinate the work of subconsultant RST International. RST will provide the following services.

- Review of Exiting Condition
    - Review base year EMME model and perform select zone and link analyses on 166th corridor.
    - Review city provided speed data for consistency with model travel times.

  Deliverable – Tech memo on existing condition

- Review of Future Baseline Condition
    - Review 2030 baseline EMME model that was developed for TMP and perform select zone and link analyses on 166th corridor to identify new traffic.
    - Analyze and compare 166th corridor travel shed, land use, travel and traffic growth patterns for the focus area (Figure 1).

  Deliverable – Tech memo on future baseline condition

- Refine Redmond model

    - Redmond model network will be refined to add details on local streets so that turning movements at studied intersections can be calculated. The refined network will be recalibrated to existing traffic counts and speeds along 166th corridor. The refinement will include zone splits, speed and capacity adjustments. It is assumed that City will provide all traffic count and travel time/speed data.

  Deliverable – Tech memo on model refinement

3.2 Alternatives Development

The CONSULTANT shall develop themed alternatives based on the following multi-modal focus:

- An auto-oriented alternative that emphasizes mobility for through traffic (could include a hill climbing lane).
- An auto-oriented alternative that emphasizes access to and from side streets.
- A complete streets; pedestrian, bicycle, and transit-oriented alternative that enhances multi-modal LOS (potentially a long-range alternative).
- One hybrid alternative to combine positive features of each theme to address community and/or City Council input.

The CONSULTANT shall work with the CITY to prepare a set of evaluation criteria in matrix format to be used to evaluate the alternatives.

The criteria may include the following: safety, multi-modal LOS, consistency with adopted neighborhood plans, consistency with the TMP, environmental impacts, opportunities for stormwater improvement, right-of-way impacts, construction cost, compatibility with available grant funding, maintenance cost, and other criteria to be determined with the CITY.

The CITY will provide input to review and approve the criteria to be used in the matrix. With the support of the CITY, the CONSULTANT shall complete the matrix evaluation of the alternatives. It is assumed that a consumer reports style rating system shall be created to determine a rating for the individual alternatives under consideration.

Deliverables: Data summary, evaluation criteria, alternatives plans, alterative evaluation summary, evaluation matrix.

3.3 Traffic Operational Analysis

The CONSULTANT shall perform intersection Level of Service (LOS) analysis for the studied intersections and conduct arterial multi-modal LOS analysis for auto, pedestrian, and transit for the 166th Avenue NE corridor using the Highway Capacity Manual 2010 (HCM 2010) Methodology. Intersection LOS will be analyzed using the SYNCHRO program and arterial multi-modal LOS will be modeled using the HCS program.

The analysis periods will focus on AM and PM peak hours in the existing 2013 condition and 2030 future condition. The morning school starting period will be analyzed for the affected intersections near the schools.

Intersection LOS will be performed for the 2013 and 2030 No-Build and Build scenarios for both the AM and PM peak hours at the studied intersections.

The studied intersections on 166th Avenue NE included:

- 166th Avenue NE/NE 100th Street
- 166th Avenue NE/NE 99th Street
- 166th Avenue NE/NE 98th Court
- 166th Avenue NE/NE 97th Street
- 166th Avenue NE/NE 95th Street
- 166th Avenue NE/NE 92nd Street
- 166th Avenue NE/NE 91st Street
- 166th Avenue NE/NE 89th Street
- 166th Avenue NE/NE 88th Street
- 166th Avenue NE/NE 87th Street
- 166th Avenue NE/NE 86th Court
- 166th Avenue NE/NE 85th Street

Arterial multi-modal LOS will be evaluated for the 166th Avenue NE corridor from NE 85th Street to NE 100th Street using the HCM 2010 methodology establishing corridor LOS for pedestrian, transit and autos.

Traffic simulation and video recording using the VISSIM program for the 2013, 2030 No-Build and Build scenarios for both the AM and PM peak hours will be completed for up to five (5) critical intersections/locations for public meetings.

3.4 Collision History Evaluation

The CONSULTANT shall evaluate current and anticipated traffic collision issues. The CONSULTANT shall review the collision data to determine the types and frequency of collision events. For the Build alternative, an analysis shall be made to determine what the potential impacts may be with respect to collision types and frequency.

Deliverables: Electronic copies of all operational calculations, VISSIM model (electronic only) and digital video recordings for up to five (5) critical intersections/locations for each scenario.

Element 4.0 Community Involvement

The goal of the Community Involvement Program is to present the alternatives evaluation and preliminary preferred alternative to the public. In addition, the program provides a forum for the community and affected property owners to provide input in the development of the PROJECT. Implementation of the Community Involvement Program will be a joint effort of the CONSULTANT and the CITY.

4.1 Project Open House

The CONSULTANT shall support and participate in one (1) public Open House that the CITY will conduct. The meeting shall be planned to provide participants with the most current PROJECT information and an opportunity to provide input on key PROJECT issues. A key objective of the Open House is to present issues to the community in a way that highlights the findings of recent work. A summary of the Open House shall prepared by the CONSULTANT. The CONSULTANT shall prepare

up to six (6) display boards for use at the public meeting. The CONSULTANT shall prepare graphics and text for a handout in electronic format for CITY reproduction for distribution at the meeting. Up to three (3) representatives of the CONSULTANT team shall attend the meeting and be available to answer questions.

The CONSULTANT shall provide electronic copies of the data provided at and received at the Open House which in turn may be reproduced by the CITY staff, as requested by public interests. All electronic documents shall be in source software and PDF format.

4.2 Respond to Comments

Since the number and nature of comments cannot be determined in advance, the CONSULTANT shall provide responses for up to thirty (30) total comments from the public. The level of effort in responding assumes that no new research or additional analysis is necessary, but that clarifications and restatements of existing data are sufficient.

Deliverables: Up to six (6) display boards, electronic original of handout materials, comment summary/response in electronic table format.

Element 5.0 Further Analysis/Preferred Alternative

The CONSULTANT shall incorporate public input, and conduct necessary analysis to develop a refined alternative as the preferred alternative. It is assumed that one or two hybrid alternatives will be developed for evaluation.

Deliverables: Hybrid Alternative Plan and Evaluation.

Element 6.0 Prepare Design Report

The CONSULTANT shall prepare a design report that documents the results of the above-defined work. The report shall include:

- An executive summary.
- A description of current and future corridor traffic speeds and volumes.
- A complete streets needs assessment.
- A discussion of the alternatives development process.
- A thorough summary of the alternatives evaluation.
- Conceptual design drawings and a cost estimate for the preferred alternative.
- A summary of the public process.
- A description of how the preferred alternative carries out the Transportation Master Plan.

The design report shall be prepared in draft form and submitted to the CITY's Project Manager for review. The CITY staff will complete their review within seven (7) calendar days and provide one set of comments to the CONSULTANT in written format. The CONSULTANT shall revise the draft memorandum to respond to the comments of the CITY staff. A final technical memorandum shall be submitted to the CITY's Project Manager within seven (7) calendar days of receipt of comments. The CONSULTANT shall revise the report one time only.

Deliverables: Draft and Final Design Report (estimated 50 pages or less).

Element 7.0 City Council Meeting

The CONSULTANT Project Manager shall support CITY staff at one City Council meeting. The purpose of the meeting is to obtain City Council input relative to the preferred alternative. The CONSULTANT will prepare a PowerPoint presentation with up to 30 slides that will review the project's history, summarize the alternatives development and evaluation findings, and present the preferred alternative.

Deliverables: PowerPoint Presentation (30 slides).

Element 8.0 Concept Estimate and 30% Plans

8.1 Concept Level Cost Estimate

The purpose of this work is to develop a working cost estimate for the preferred alternative. The estimate will be based upon on an aerial base supplemented with available GIS data for utilities and right-of-way. The concept level estimate will include the following elements prepared by the CONSULTANT:

- Proposed Roadway Channelization Costs
- Right-of-Way Costs
- Signing Costs
- Conceptual Traffic Signal Modification Costs
- Conceptual Pedestrian Beacons or Signals Costs
- Conceptual Paving and Drainage Costs
- Conceptual Landscaping Costs
- MOT Costs
- Conceptual Utility Relocation Costs
- Cost Estimate in TIB Grant Format

Deliverables: Eight (8) copies of the conceptual cost estimate (black and white format).

8.2 Design Survey (Optional)

The CITY may, at its discretion, supplement this agreement to include design survey for the preferred alternative. If the preferred alternative is primarily a striping and signing project, an aerial base may be adequate for design. If significant construction -- especially work behind the sidewalks or required excavation greater than 1 foot -- is required, additional survey will be recommended. The schedule, scope, and budget for this additional work will be negotiated at a later date, and no later than the expiration date of this agreement.

8.3 30% Plans (Optional)

The CITY may, at its discretion, supplement this agreement to include the preparation of 30% Plans, Specifications, and Estimates for the preferred alternative. The schedule, scope, and budget for this additional work will be negotiated at a later date, and no later than the expiration date of this agreement.

Element 9.0 Funding and Implementation Plan (Optional)

9.1 Implementation Plan

The CITY may, at its discretion, supplement this agreement to include the preparation of a funding strategy to include local, state, and federal funding sources best matched to the PROJECT. The features

of the preferred alternative will dictate what funding sources may be most available. These could include the Safe Routes to School Program, Non-Motorized Program, TIB Urban Cities Program, and PSRC Local and Regional Programs. The schedule, scope, and budget for this additional work will be negotiated at a later date, and no later than the expiration date of this agreement.

Element 10.0 100% Plans Specifications and Estimates (Optional)

10.1 100% Plans Specifications and Estimates

The CITY may, at its discretion, supplement this agreement to include the preparation of 100% Plans, Specifications, and Estimates for the preferred alternative. The schedule, scope, and budget for this additional work will be negotiated at a later date, and no later than the expiration date of this agreement.

Element 11.0 Construction Support (Optional)

11.1 Construction Support

The CITY may, at its discretion, supplement this agreement to include construction support for the preferred alternative. The schedule, scope, and budget for this additional work will be negotiated at a later date, and no later than the expiration date of this agreement

EXHIBIT B

PAYMENT
(NEGOTIATED HOURLY RATE)

The CONSULTANT shall be paid by the CITY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform with all applicable portions of 48 CFR Part 31.

1. **Hourly Rates**

   The CONSULTANT shall be paid by the CITY for work done, based upon the negotiated hourly rates shown in Exhibit "C" attached hereto and by this reference made part of the AGREEMENT. The rates listed shall be applicable for the first 12-month period and shall be subject to negotiation for the following 12-month period upon request of the CONSULTANT or the CITY. If negotiations are not conducted for the second or subsequent 12-month periods within 90 days after completion of the previous period, the rates listed in this AGREEMENT, or subsequent written authorization(s) from the CITY shall be utilized. The rates are inclusive of direct salaries, payroll additives, overhead, and fee. The CONSULTANT shall maintain support data to verify the hours billed on the AGREEMENT.

2. **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 subconsultants. Air or train travel will only be reimbursed to economy class levels unless otherwise approved by the CITY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the CITY's Travel Rules and Procedures. However, air, train, and rental car costs shall be reimbursed in accordance with the 48 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 CITY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

3. **Contingencies**

   If the CITY desires the CONSULTANT to perform additional work beyond that already defined in the AGREEMENT, the Agreement Administrator may authorize additional funds for this purpose. Such authorization(s) shall be in writing and shall not exceed the amount shown in Exhibit "C". Any changes requiring additional costs in excess of the contingencies shall be made in accordance with Section XIV, "Extra Work".

4. **Maximum Amount Payable**

   The maximum amount payable by the CITY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The maximum amount payable is comprised of the total amount authorized and the contingencies. The maximum amount payable does not include payment for extra work as stipulated in Section XIV, "Extra Work". No minimum amount payable is guaranteed under this AGREEMENT.

5. **Monthly Progress Payments**

Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly invoices shall be supported by detailed statements for hours expended at the rates established in Exhibit "C", including names and classifications of all employees, and invoices for all direct nonsalary expenses. To provide a means of verifying the invoiced salary costs for the consultant's employees, the agency may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the project at the time of the interview.

6. **Final Payment**

Final payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the CITY after the completion of the work under this AGREEMENT, contingent 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 CITY unless such claims are specifically reserved in writing and transmitted to the CITY by the CONSULTANT prior to its acceptance. Said final payment shall not, however, be a bar to any claims that the CITY may have against the CONSULTANT or to any remedies the CITY may pursue with respect to such claims.

The payment of any billing will not constitute agreements 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 CITY within thirty (30) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT or any claims relating to the validity of a finding by the CITY of overpayment.

7. **Inspection of Cost Records**

The CONSULTANT and their subconsultants shall keep available for inspection by representatives of the CITY, for a period of three (3) years after 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 contract is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

EXHIBIT C

CONSULTANT FEE DETERMINATION

PROJECT: 166th Avenue NE Rechannelization Study/Conceptual Design

	Classification		Hrs.	x	Negotiated Rate	Cost
1	Engineering Manager (ENGM)	VLS	91		$ 222.90	$20,284
2	Managing Prof. Engineer (MGPE)	MLF/SBS	20		$ 184.73	$3,695
3	Professional Engineer (PFEN)	MXLU/VXV/CCWE	166		$ 134.35	$22,302
4	Design Engineer (DEEN)	KJP/AOW	220		$ 119.08	$26,198
5	Senior CADD Technician (SCAD)	DLO/OXA	64		$ 122.14	$7,817
6	Senior Graphic Specialist (SGRP)	BEAM	24		$ 101.68	$2,440
7	Senior Landscape Architect (SLAN)	JCGA	52		$ 133.13	$6,923
8	Senior Bridge Engineer (SBEN)	JPME	0		$ 177.10	$0
9	Administrative Assistant (ADMA)	MJRE	52		$ 85.50	$4,446
10	Project Administrator (PADM)	VLE	6		$ 102.59	$616
11	Survey Technician (SVTE)	ECCH	0		$ 97.71	$0
12	Survey 2-Person Crew (PCHF & INST)		0		$ 146.56	$0
		Total Hrs.	**695**			

Direct Labor / Overhead / Fee Cost Summary						**$94,720**
Overhead Cost @	175.34%	of Direct Labor				
Net Fee @	30.00%	of Direct Labor				
Overhead Cost + Net Fee + direct labor @		305.34%				
Direct Non-Labor Cost						
a) Reproduction - Plans	0	Items @	$12.00	/Each		$0
b) Reproduction - Specs		Items @	$22.00	/Each		$0
c) Communication/Mail		Deliveries @	$25.00	/Each		$0
d) Travel (Vehicle Miles)	100	Miles @	$0.565	/Mile	$57	
e) Utility Locates		Lump Sum	$2,000	/Each		$0
f) Potholing (APS)		Lump Sum	$2,500	/Each		$0
					$57	
Subconsultants						
RST International Inc. (See Exhibit D)					$15,000	
					$15,000	
Total Non-Labor Direct Cost						**$15,057**
TOTAL						**$109,776**
Contingency						**$30,000**
GRANT TOTAL						**$139,776**

EXHIBIT D

SUBCONTRACTED WORK

The CITY permits subcontracts for the following portions of the work of the AGREEMENT:

SUBCONSULTANT	WORK DESCRIPTION	AMOUNT
RST International Inc.	Provide future traffic forecast for the study area	$15,000
	TOTAL =	**$15,000**

EXHIBIT D-1

SUBCONSULTANT FEE DETERMINATION

PROJECT: 166th Avenue NE Rechannelization Study/Conceptual Design

COMPANY NAME: RST International Inc.

Negotiated Hourly Rates and Estimated Person-Hours/Costs Summary

	Classification	Hrs.	x	Burdenend Rate	Cost
1	Robert Tung	88		$ 170.00	$14,960
	Total Hrs.	**88**			

Direct Labor / Overhead / Fee Cost Summary	**$14,960**
	$0
	$14,960

Direct Non-Labor Cost

a) Reproduction - Plans		Items @		/Each		$0
b) Reproduction - Specs		Items @		/Each		$0
c) Communication/Mail		Deliveries @		/Each		$0
d) Travel (Vehicle Miles)	70	Miles @	$0.565	/Mile	$40	
e) Utility Locates		Lump Sum		/Each		$0
f) Potholing (APS)		Lump Sum		/Each		$0
					$40	

Total Non-Labor Direct Cost	**$40**

RST International Inc.	**$15,000**

EXHIBIT E

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 the same manner as in federally assisted programs of the CITY, 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.

2. NON-DISCRIMINATION: The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subconsultants, 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 the AGREEMENT covers a program set forth in Appendix B of the Regulations.

3. SOLICITATIONS FOR SUBCONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the Regulations relative to 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 CITY 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 CITY, 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 CITY shall impose such sanctions as it may determine to be appropriate, including, but not limited to:

   - Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
   - Cancellation, termination or suspension of the 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 procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subconsultant or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the CITY to enter into such litigation to protect the interests of the CITY.