



COUNTY OF SPOKANE WASHINGTON

BÉLA G. KOVÁCS
DIRECTOR

Department Of Purchasing
901 N. Monroe, Suite 350B, Spokane, WA 99201

PHONE (509) 477-2301
FAX (509) 477-6627

A/E ON CALL SURVEYING SERVICES AGREEMENT CONTRACT NUMBER P?

Title: Surveying Services, ?
Estimated Contract Value: \$?
Estimated Completion Date: ?
Contract Type: Fee and Expense Not To Exceed

COUNTY:

Spokane County Washington
C/O Spokane County Purchasing Department
901 N. Monroe, Suite 350B
Spokane, WA 99201
Contract Manager: David T. Raymond, Ph: (509) 477-2301, Fax: (509) 477-6627
Email: draymond@spokanecounty.org
Contract Administrator: ?[name, title, Phone: (509) 477-?, Fax (509) 477-?
Email: ?@spokanecounty.org

A/E:

USKH
621 W. Mallon Ave., Suite 309, Spokane, WA 99201
Contact: Paul Tomkins, P. L. S., Phone: (509) 328-5139, Fax: (509) 328-0423
Email: ptomkins@uskh.com

WHEREAS, pursuant to the provisions of the Revised Code of Washington, the Board of County Commissioners has the care of County property and the management of County funds and business; and

WHEREAS, pursuant to Request For Qualifications P5429 and Resolution 7-0645 dated July 24, 2007 this Agreement is made on [?date] by and between Spokane County, a political subdivision of the State of Washington hereinafter known as the "County" having offices for the transaction of business as listed above and the "A/E" as named and having offices for the transaction of business as listed above, jointly, hereinafter referred to as the "Parties".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, the Parties mutually agree as follows:

ARTICLE 1. SUBJECT AND PURPOSE

Services will be provided and/or performed as outlined in Article 20 as set forth herein by reference.

ARTICLE 2. TERM

Services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the County, and subject to the County's approval a schedule for the performance of the Services which may be adjusted as the Project proceeds, shall be submitted for review and approval. The schedule shall include allowances for periods of time required for the County's review and for the receipt of submissions by authorities having jurisdiction over the project.

ARTICLE 3. COMPENSATION

The County agrees to make payment in the amount and manner stipulated in the Contract. There will be no initial payment. Payments shall be made in monthly installments payable after review by the purchasing department and authorization by the head of the department that has budget authority for the work being performed. Said authorization shall be conditioned upon the submittal of an invoice setting forth a breakdown of the services and costs performed in providing the services as set forth.

Payment shall be in arrears the later of 30 days from the date of receipt of a correct and proper invoice or date of receipt of acceptable goods/services (not from the postmark date or date shown on the invoice). All billing and correspondence shall be mailed to Spokane County C/O Spokane County Purchasing Department, 901 N. Monroe, Suite 350B, Spokane, WA 99201.

The A/E will show this contract number on all pay requests and documents associated with the contract. Pay requests will be numbered sequentially beginning with "Pay Request 1". If the billing cannot be identified or the charges correlated with this agreement it shall be returned without action.

Cash discounts: If offered and accepted a cash discount period shall apply after receipt of a proper invoice or final acceptance of the goods/services, whichever is later (not from the postmark date or date shown on the invoice).

Date of payment of an invoice shall be the date appearing on the warrant issued in payment of the invoice.

Moneys past due may bear a finance charge as stipulated by law. The current rate is 1% per month.

Identification of final invoice. In order for the Parties to close their books and records, the A/E will state "final invoice" or other words to that effect on its final or last billing to the County for the work of the contract. Since this contract will thereupon be closed and any budget balances deleted, the A/E agrees that any further charges not properly included on this or previous billings shall be waived in their entirety.

ARTICLE 4. APPROVAL OF DOCUMENTS

The County's approval of Documents resulting from the services provided by the A/E shall not relieve the A/E from its responsibility to comply with the standard of care for performance of its services set forth in this Agreement.

ARTICLE 5. INSTRUMENTS OF SERVICE

Drawings, specifications and other documents, including those in electronic form, prepared by the A/E and the A/E's consultants are Instruments of Service. The County shall own all rights, title and interest in all of the Instruments of Service and all of the other materials conceived or created by the A/E, or its employees or subcontractors, either individually or jointly with others and which arise out of the performance of this contract, including any inventions, reports, studies, designs, drawings, specifications, notes, documents, software and

documentation, computer-based training modules, electronically, magnetically or digitally recorded material, and other work in whatever form (hereafter "Materials"). All finished or unfinished Materials prepared by the A/E under this Agreement shall be the property of the County whether or not the Project is completed or this Agreement is canceled prior to expiration.

The A/E hereby assigns to the County all rights, title and interest to the Materials. The A/E shall, upon request of the County, execute all papers and perform all other acts necessary to assist the County to obtain and register copyrights, patents or other forms of protection provided by law for the Materials such work being at additional expense to the County. The Materials created under this Agreement by the A/E, its employees or subcontractors, individually or jointly with others, shall be considered "works made for hire" as defined by the United States Copyright Act. All of the Materials, whether in paper, electronic, or other form, shall be remitted to the County by the A/E, its employees and any subcontractors, and the A/E shall not copy, reproduce, allow or cause to have the Materials copied, reproduced or used for any purpose other than performance of the A/E's obligations under this Agreement without the prior written consent of the County's Designated Representative except that the A/E may retain copies necessary for record keeping, documentation and other such business purposes related to the Agreement.

The foregoing shall not be construed to mean that the County shall acquire an exclusive possessory right, by copyright or otherwise, to the exclusion of the A/E, in standard elements found in the Materials (such as standard details) generated and authored by the A/E for its regular, repeated and ongoing use in designs, plans and drawings for its customers in the regular course of its business. The County further waives any claim it might have against the A/E for errors or omissions arising specifically from changes made by the County or others to the Materials after the completion of the work provided by this Agreement. This waiver does not extend to errors or omissions in the Materials unrelated to any such changes by the County or others.

The A/E represents and believes that Materials produced or used under this Agreement do not and will not infringe upon any intellectual property rights of another, including but not limited to patents, copyrights, trade secrets, trade names, and service marks and names. The A/E shall indemnify and defend the County at the A/E's expense from any action or claim brought against the County to the extent that it is based on a claim that all or part of the Materials infringe upon the intellectual property rights of another. The A/E shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages including, but not limited to, reasonable attorney fees arising out of this Agreement, amendments and supplements thereto, which are attributed to such claims or actions. This paragraph shall not apply to claims that arise from Materials specifically required by the County, or to portions of the Materials which the County directed the A/E to include within said Materials.

If such a claim or action arises, or in the A/E's or the County's opinion is likely to arise, the A/E shall, at the County's discretion, either procure for the County the right or license to continue using the Materials at issue or replace or modify the allegedly infringing Materials. This remedy shall be in addition to and shall not be exclusive to other remedies provided by law.

When applicable at the completion of the Agreement, upon request of the County, the A/E will furnish to the County, at no additional charge, two electronic copies on CD containing the final specifications in Microsoft Word 2000 (PC based) or newer and all CAD drawing files in .dwg format no older than one version previous to the current software version.

The A/E shall ensure that the substance of foregoing subsections is included in each subcontract for the Work under this Contract.

ARTICLE 6. ENDORSEMENT OF PLANS

The A/E shall seal and sign all drawings prepared for the project as required or upon request of the County.

ARTICLE 7. NON-DISCRIMINATION

The A/E shall not discriminate against any employee who is employed in connection with the Work, or against any applicant for such employment, because of race, creed, color, sex or national origin, marital status, or the presence of any sensory, mental or physical handicap.

ARTICLE 8. INSURANCE

The A/E shall continue coverage meeting the requirements of Request For Qualifications P5429 for the duration of the contract.

ARTICLE 9. MAINTENANCE OF RECORDS

The A/E will maintain, for at least three (3) years after completion of this contract, all relevant records pertaining to the contract. The A/E shall make available to the County or the Washington State Auditor or their duly authorized representatives, at any time during their normal operating hours, all records, books or pertinent information which the A/E shall have kept in conjunction with this Agreement and which the County may be required by law to include or make part of its auditing procedures, an audit trail or which may be required for the purpose of funding the services contracted for herein.

ARTICLE 10. COMPLIANCE WITH LAWS

The Parties hereto specifically agree to observe federal, state and local laws, ordinances and regulations to the extent that they may have any bearing on either providing any money under the terms of this Agreement or the services actually provided under the terms of this Agreement.

ARTICLE 11. ASSIGNMENT

The A/E may not assign or transfer in whole or in part, its interest in this Agreement without the express written consent of the County.

ARTICLE 12. MODIFICATION

No modification or amendment to this Agreement shall be valid until the same is reduced to writing, in the form of a change order, and executed with the same formalities as this present Agreement.

ARTICLE 13. TERMINATION

This Agreement may be terminated by the County upon seven (7) days written notice. In the event of termination through no fault of the A/E, the County agrees to pay the A/E for all services performed to the date of termination based upon actual costs and expenses incurred according to contract. Payment will be based upon an itemized breakdown and documentation by the A/E that services have been performed to the date of termination and acceptance of said documentation by the County.

ARTICLE 14. VENUE STIPULATION

This Agreement has and shall be construed as having been made and delivered in the State of Washington, and the laws of the State of Washington shall be applicable to its construction and enforcement of this Agreement or any provision hereto shall be instituted only in the courts of competent jurisdiction within Spokane County, Washington.

ARTICLE 15. WAIVER

No officer, employee, agent or otherwise of the County, has the power, right or authority to waive any of the conditions or provisions of this Agreement. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement or a law shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law. Failure of the County to enforce at any time any of the provisions of this Agreement or to require at any time performance by the A/E of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way

affect the validity of this Agreement or any part hereof, or the right of the County to hereafter enforce each and every such provision.

ARTICLE 16. INDEMNIFICATION

The A/E agrees to defend, indemnify and hold the County harmless from any and all claims, including but not limited to reasonable attorney fees, demands, losses and liabilities to or by third parties arising from, resulting from, an error, omission or negligent act of the A/E performed under this contract by the A/E, its agents or employees to the fullest extent permitted by law. The A/E's duty to indemnify the County shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the County, its agents or employees. The A/E's duty to indemnify the County for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence or (a) the County, its agents or employees, and (b) A/E, its agents or employees shall apply only to the extent of negligence of the A/E or its agents or employees. A/E's duty to defend, indemnify and hold the County harmless shall include, as to all claims, demands, losses and liability to which it applies, the County's personnel-related costs, reasonable attorney's fees, court costs and all other claim-related expenses.

The A/E's indemnification shall specifically include all claims for loss liability because of wrongful payments under the Uniform Commercial Code, or other statutory or contractual liens or rights or third parties, including taxes, accrued or accruing as a result of this contract or work performed or materials furnished directly or indirectly because of this contract.

A/E further agrees that this duty to indemnify County applies regardless of any provisions in RCW Title 51 to the contrary, including but not limited to any immunity of A/E for liability for injuries to A/E's workers and employees, and A/E hereby waives any such immunity for the purpose of this duty to indemnify County.

ARTICLE 17. NOTICES

All notices called for or provided for in this Agreement shall be in writing and must be served on any of the Parties either personally or by certified mail sent to the Parties at their respective addresses herein above given. Notices sent by certified mail shall be deemed served when deposited in the United States mail, postage prepaid.

ARTICLE 18. RELATIONSHIP OF THE PARTIES

The parties intend that an independent contractor relationship will be created by this Agreement. The County is interested only in the results that could be achieved and the conduct and control of all services will be solely with the A/E. No agent, employee, servant or otherwise of the A/E shall be deemed to be an employee, agent, servant, or otherwise of the County for any purpose and the employees of the A/E are not entitled to any of the benefits that the County provides for County employees. The A/E will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, subcontractors or otherwise, during the performance of this Agreement.

ARTICLE 19. HEADINGS

The article headings in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the articles to which they appertain.

ARTICLE 20. SCOPE OF WORK

A. SERVICES: Scope of work per letter dated [?] to [?] (? pages), attached hereto and incorporated herein by reference. Work will be coordinated with the contract administrator.

B. BASIS OF COMPENSATION: Contract value not to exceed \$? consisting of a fee not to exceed \$? plus reimbursable costs not to exceed \$? dollars. There will be no initial payments. The Fee Schedule lists budget

estimates of A/E prices and approximate percentage of the total work. Billing will be for work completed and will be in the form of a percent of completion of the applicable item. The budgeted amounts may be reallocated between categories as the scope and work dictates without change order.

1. BASIC SERVICES: Basic compensation will not include fees, licenses, permits, and change orders caused by the A/E's errors or omissions.

FEE SCHEDULE		
Category	Fee Amount	% of the total fee
Task 1 - Project Administration	\$0.00	
Task 2 -	\$0.00	
Task 3 -	\$0.00	
Task 4 -	\$0.00	
Task 5 -	\$0.00	
Task 6 -	\$0.00	
TOTAL =	\$0.00	

2. ADDITIONAL SERVICES: Performance of work under this paragraph must have the prior written approval of the County. Additional services of the A/E shall be hourly based upon the "Standard Fee Schedule" following. Prices shall remain firm for the duration of the contract.

FEE SCHEDULE – [?date]		
Category		Price
2 Man Survey Party	(per hour)	\$0.00
3 Man Survey Party	(per hour)	\$0.00
GPS, 2 Man Survey Crew, Complete	(per hour)	\$0.00
Principal Surveyor	(per hour)	\$0.00
Computing, Drafting, Research, Administration	(per hour)	\$0.00
Planning Services		\$0.00
Reproduction and special materials (itemized bill)		Actual Cost
Per diem out of Spokane (itemized bill)		Actual Cost
Filing Surveys “Survey Recording Act”	(each)	\$0.00
Litigation Court Appearance	(per hour)	\$0.00
One Man Survey With GPS Pathfinder/Pro-XRS	(per hour)	\$0.00
1. Transportation by automobile at current IRS rate per mile 2. Reproduction work, at cost plus 5% 3. Travel and subsistence at direct cost 4. Other consultants or subcontractors at cost plus 5% handling fee 5. All other expenses at cost plus 5% handling fee		

ARTICLE 21. CONTRACT DOCUMENTS

The Contract Documents consist of this agreement and the other documents listed below and all

modifications and change orders issued subsequent thereto. These form a contract and all are as fully a part of the contract as if attached to this agreement or repeated herein. In the event of any inconsistency between the provisions of this Agreement and the documents listed below, the provisions of this Agreement will control and the order of precedence will be in the order listed. An enumeration of the contract documents is set forth below:

1. Change Orders; and
2. This Agreement; and
3. Scope of work and fee per Attachment "A" (? pages); and
4. Request For Qualifications P5429; and
5. A/E response to Request for Qualifications dated June 20, 2007

ARTICLE 22. OTHER EMPLOYMENT

Contracts resulting from this RFQ are not exclusive services Agreements. The A/E may take on other professional assignments while completing work under this RFQ.

ARTICLE 23. PAYMENT OF TAXES

This Contract is for the employment of the A/E as an independent contractor. The A/E holds that they are an independent contractor doing business as listed above and is solely responsible for paying any and all taxes associated with the work of this Agreement including but not necessarily limited to income and social security taxes.

ARTICLE 24. SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement, which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

ARTICLE 25. SPECIAL PROVISION

The County's failure to insist upon the strict performance of any provision of this Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

ARTICLE 26. RECOVERY OF FUNDS:

Whenever, under the Contract, any sum of money shall be recoverable from or payable by the A/E to Spokane County the same amount may be deducted from any sum due to the A/E under the Contract or under any other contract between the A/E and Spokane County including reasonable attorney fees and or any other collection costs. The rights of Spokane County are in addition and without prejudice to any other right Spokane County may have to claim the amount of any loss or damage suffered by Spokane County on account of the acts or omissions of the A/E.

ARTICLE 27. ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing Party or Parties shall be entitled to recover reasonable attorney's fees, court costs, and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs, and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such Party or Parties may be entitled.

ARTICLE 28. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the

Parties hereto. The A/E has read and understands all of this Agreement, and now states that no representation, promise, or Agreement not expressed in this Agreement has been made to induce the A/E to execute the same.

COUNTY OF SPOKANE WASHINGTON

SURVEYING SERVICES AGREEMENT

CONTRACT NUMBER [?]

Title: Surveying Services, [?]
Administered By: [name, title, phone (509) 477-?, fax (509) 477-?]
Department: [?]
Fee: \$[?]
Estimated Time To Complete: [?] days from execution of agreement
Contract Type: Lump Sum Fee Not To Exceed

COUNTY:

Spokane County Washington
C/O Spokane County Purchasing Department
721 N. Jefferson, Suite 303
Spokane, WA 99260
Contact David T. Raymond
Phone (509) 477-2301
Fax (509) 477-6627

FIRM:

James F. Benthin & Associates
1004 N. Atlantic Street
Spokane, WA 99201-2209
Contact Scott A. Dale
Phone (509) 325-4529
Fax (509) 325-4520

WHEREAS, pursuant to the provisions of the Revised Code of Washington, the Board of County Commissioners has the care of County property and the management of County funds and business;

WHEREAS, pursuant to Request For Qualifications 96-095, and Resolution 97-0030 dated January 14, 1997 this Agreement is made as of [?], by and between SPOKANE COUNTY, a political subdivision of the State of Washington hereinafter known as the "COUNTY" having offices for the transaction of business as listed above and James F. Benthin & Associates hereinafter known as the "FIRM" having offices for the transaction of business as listed above, jointly, hereinafter referred to as the "PARTIES"; follows:

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, the parties mutually agree as follows:

ARTICLE 1. THE WORK AND SERVICES

The County hereby engages the Firm to perform and render services relative to the scope of work outlined in the Article titled Scope Of Work below. Services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. This award is nonexclusive and if it be in the County's best interest it may award work to other firms.

ARTICLE 2. CONTRACT DOCUMENTS

The Contract Documents consist of this agreement and the other documents listed below and all modifications and change orders issued subsequent thereto. These form a contract and all are as fully a part of the contract as if attached to this agreement or repeated herein. In the event of any inconsistency between the provisions of this Agreement and the documents listed below, the provisions of this Agreement will control and the order of precedence will be in the order listed. An enumeration of the contract documents is set forth below:

1. This agreement; and
2. Request For Qualifications 96-095; and
3. Proposal from the Firm dated [date?], consisting of [?] pages attached hereto and included herein by reference.

ARTICLE 3. TERM

The Contract start date is that date listed herein above and shall continue until the work is done or [date or days?] from execution of agreement whichever occurs sooner. The end of the Contract period may be extended by written change order upon the mutual consent of both parties.

ARTICLE 4. COMPENSATION

The County agrees to make payment in the amount and manner stipulated in the Contract. There will be no initial payment. Payments shall be made in monthly installments payable after review by the purchasing department and authorization by the head of the department that has budget authority for the work being performed. Said authorization shall be conditioned upon the submittal of an invoice setting forth a breakdown of the services and costs performed in providing the services as set forth.

Payment shall be in arrears the later of 30 days from the date of receipt of a correct and proper invoice or date of receipt of acceptable goods/services (not from the postmark date or date shown on the invoice). All billing and correspondence shall be mailed to Spokane County C/O Spokane County Purchasing Department, 721 N Jefferson, Suite 303, Spokane WA 99260.

The A/E will show this contract number on all pay requests and documents associated with the contract. Pay requests will be numbered sequentially beginning with "Pay Request 1". If the billing cannot be identified or the charges correlated with this agreement it shall be returned without action.

Cash discounts: If offered and accepted a cash discount period shall apply after receipt of a proper invoice or final acceptance of the goods/services, whichever is later (not from the postmark date or date shown on the invoice).

Date of payment of an invoice shall be the date appearing on the warrant issued in payment of the invoice.

Moneys past due may bear a finance charge as stipulated by law. The current rate is 1% per month.

Identification of final invoice. In order for the Parties to close their books and records, the A/E will state "final invoice" or other words to that effect on its final or last billing to the County for the work of the contract. Since this contract will thereupon be closed and any budget balances deleted, the A/E agrees that any further charges not properly included on this or previous billings shall be waived in their entirety.

ARTICLE 5. PRICE ESCALATION/DE-ESCALATION

Prices are to be firm for the duration of the Contract or a minimum period of one (1) year from the effective date of the Agreement through midnight the day before one year hence.

ARTICLE 6. APPROVAL OF DOCUMENTS

The County's approval of any documents resulting from the services provided by the Firm shall not relieve the Firm from its responsibility to comply with the standard of care for performance of its services set forth in this Agreement.

ARTICLE 7. OWNERSHIP OF DOCUMENTS

All drawings, maps, sketches, and other data, including electronic files, developed, or purchased, under this Contract or at the County's expense shall be and remain its property and may be reproduced and reused at the discretion of the County without restriction, reservation or qualification. The Contractor may retain copies necessary for record keeping, documentation and all such other business purposes related to the Agreement.

All covenants, agreements, representations, and warranties made herein, or otherwise made in writing by any Party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

Any reuse without written verification or adaptation by Contractor for the specific purpose intended, will be at the County's sole risk and without liability or legal exposure to Contractor arising out of or resulting therefrom. Any such verification or adaptation will entitle Contractor to further compensation at rates to be agreed upon by the County and Contractor.

If and as requested, the County shall comply with the provisions pertaining and applicable to Washington State Public Record Law.

At the completion of the contract, upon request of the County, the A/E will furnish, at no additional charge, two electronic copies on CD containing the final specifications in Microsoft Word 2000 (PC based) or newer and CAD drawing files in .dwg format.

ARTICLE 8. NON-DISCRIMINATION

The Firm shall not discriminate against any employee who is employed in connection with the Work, or against any applicant for such employment, because of race, creed, color, sex or national origin, marital status, or the presence of any sensory, mental or physical handicap.

ARTICLE 9. INSURANCE

The Firm shall continue coverage meeting requirements of Request For Qualifications 96-095 for the duration of the contract.

The County reserves the right to review and approve all insurance carriers, companies, and coverages. The Firm agrees to furnish a copy of the Insurance Policy within 5 days of receipt of written request by the County.

Failure of the Firm to fully comply with the above insurance requirements during the term or the Agreement shall be considered a material breach of contract and cause for immediate termination of the Agreement at the County's discretion. Alternatively the County may procure and maintain, at the Firm's sole expense, insurance to the extent deemed proper up to the amount of the required coverage(s). The County may offset the cost of such insurance against payment due to the Firm under this Agreement.

ARTICLE 10. MAINTENANCE OF RECORDS

The Firm shall make available to the County or the Washington State Auditor or their duly authorized representatives, at any time during their normal operating hours, all records, books or pertinent information which the Firm shall have kept in conjunction with this Agreement and which the County may be required by law to include or make part of its auditing procedures, an audit trail or which may be required for the purpose of funding the services contracted for herein.

ARTICLE 11. COMPLIANCE WITH LAWS

The parties hereto specifically agree to observe federal, state and local laws, ordinances and regulations, to the extent that they may have any bearing on either providing any money under the terms of this Agreement or the services actually provided under the terms of this Agreement

ARTICLE 12. ASSIGNMENT

The Firm may not assign or transfer in whole or in part, its interest in this Agreement without the express written consent of the County.

ARTICLE 13. MODIFICATION

No modification or amendment to this Agreement shall be valid until the same is reduced to writing, in the form of an amendment, and executed with the same formalities as this present Agreement

ARTICLE 14. TERMINATION

All funds for payment by the County under this Agreement are subject to the availability of an annual appropriation for this purpose by Spokane County. In the event of non-appropriation of funds for the services provided under the Agreement, the County will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the or on thirty day prior written notice, but failure to give such notice shall be of no effect and Spokane County shall not be obligated under this Agreement beyond the date of termination.

This Agreement may be terminated by the County without cause upon written notice. Work in progress will be paid, on a prorated basis to the date ordered to stop.

Spokane County reserves the right to cancel this Agreement, with cause, effective at a time of its choosing. Work in progress would be completed at the County's option.

The Firm may terminate this Agreement without cause by submitting notification in writing fourteen (14) days in advance of termination.

ARTICLE 15. VENUE STIPULATION

This Agreement has and shall be construed as having been made and delivered in the State of Washington, and the laws of the State of Washington shall be applicable to its construction and enforcement of this Agreement or any provision hereto shall be instituted only in the courts of competent jurisdiction within Spokane County, Washington.

ARTICLE 16. WAIVER

No officer, employee, agent or otherwise of the County, has the power, right or authority to waive any of the conditions or provisions of this Agreement No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement or a law shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law. Failure of the County to enforce at any time any of the provisions of this Agreement or to require at any time performance by the Firm of any provision hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this Agreement or any part hereof, or the right of the County to hereafter enforce each and every such provision.

ARTICLE 17. INDEMNIFICATION

All services to be rendered or performed under this Agreement will be rendered or performed entirely at the Firm's own risk. The Firm expressly agrees, to the fullest extent permitted by law, to indemnify and hold harmless the County and all its officers, agents, employees or otherwise (collectively, County) from any and all liability, loss or damage that they may suffer as the result of claims, demands, actions, damages or injuries of every kind or nature whatsoever by or to any and all persons or property, including reasonable attorneys' fees, defense costs, or judgments against them which result from, arise out of, or are in any way connected with the Firm's negligent performance of professional services to be rendered or performed under the terms of this Agreement and that of its subconsultants or anyone for whom the Firm is legally liable.

The Firm further agrees that this duty to indemnify the County applies regardless of any provisions in RCW Title 51 to the contrary, including but not limited to any immunity of Firm for liability for injuries to Firm's workers and

employees, and Firm hereby waives any such immunity for the purpose of this duty to indemnify the County.

The County expressly agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Firm, its officers, directors, employees and subconsultants (collectively, Firm) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the County's negligent acts in connection with the work of this Agreement and the acts of its contractors, subcontractors or consultants or anyone for whom the County is legally liable.

Neither the County nor the Firm shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

ARTICLE 18. NOTICES

All notices called for or provided for in this Agreement shall be in writing and must be served on any of the parties either personally or by certified mail sent to the parties at their respective addresses herein above given. Notices sent by certified mail shall be deemed served when deposited in the United States mail, postage prepaid.

ARTICLE 19. RELATIONSHIP OF THE PARTIES

The parties intend that an independent or relationship will be created by this Agreement The County is interested only in the results that could be achieved and the conduct and control of all services will be solely with the Firm. No agent, employee, servant or otherwise of the Firm shall be deemed to be an employee, agent, servant, or otherwise of the County for any purpose and the employees of the Firm are not entitled to any of the benefits that the County provides for County employees. The Firm will be solely and entirely responsible for its acts and the acts of its agents, employees, servants, subcontractors or otherwise, during the performance of this Agreement

ARTICLE 20. HEADINGS

The article headings in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to, define, limit, or extend the scope or intent of the articles to which they appertain.

ARTICLE 21. SCOPE OF WORK

Performance of work under this contract will not begin before the execution of this Agreement.

A. **SCOPE OF WORK:** As outlined in the proposal from the Firm dated [?], consisting of [?] page attached hereto and included herein by reference.

B. **BASIS OF COMPENSATION:** Lump Sum fee not to exceed with additional work on a time and materials basis as listed below unless otherwise negotiated. Additional work and or rates may not be changed without the approval of Spokane County through the use of a Change Order to this Agreement

BASIC SERVICES: The maximum estimated lump sum amount to be paid the Firm under this Agreement is [\$ in words] dollars and 00/100 (\$[?]).

ADDITIONAL WORK: Unless otherwise agreed upon and approved by the County in advance additional work performed under this Agreement shall be itemized and billed at the rates stipulated in the Fee Schedule below:

FEE SCHEDULE – May, 2001		
Category		Price
2 Man Survey Party	(per hour)	\$130.00
3 Man Survey Party	(per hour)	\$155.00
GPS, 2 Man Survey Crew, Complete	(per hour)	\$168.00

Principal Surveyor	(per hour)	\$103.00
Computing, Drafting, Research, Administration	(per hour)	\$55.00
Planning Services		\$55.00
Reproduction and special materials (itemized bill)		Actual Cost
Per diem out of Spokane (itemized bill)		Actual Cost
Filing Surveys "Survey Recording Act"	(each)	\$121.00
Litigation Court Appearance	(per hour)	\$175.00
One Man Survey With GPS Pathfinder/Pro-XRS	(per hour)	\$120.00

ARTICLE 22. SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

ARTICLE 23. SPECIAL PROVISION

The County's failure to insist upon the strict performance of any provision of this Agreement or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement

ARTICLE 24. OTHER EMPLOYMENT

This Agreement is not an exclusive services Agreement. The Firm may take on other professional assignments while completing the work set forth herein.

ARTICLE 25. PAYMENT OF TAXES

This Agreement is for the employment of the Firm as an independent contractor. The Firm holds itself out as an independent contractor doing business as listed above and is solely responsible for paying any and all taxes associated with the work of this Agreement including but not necessarily limited to income and social security taxes.

ARTICLE 26. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. The Firm has read and understands all of this Agreement, and now states that no representation, promise, or agreement not expressed in this document has been made to induce the Firm to execute the same.

