

Payment for any part of the work by the STATE shall not constitute a waiver by the STATE of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the STATE. 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 STATE, without additional compensation thereof. Should the STATE 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 STATE. 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 STATE shall be referred for determination to the Secretary of Transportation of the Washington State Department of Transportation, 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 Secretary's decision, that decision shall be subject to *de novo judicial review*. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in the Washington State Department of Transportation "Consultant Service's Procedures Manual" M27-50 and revisions thereto.

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 Thurston 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 laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in Thurston 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 contract shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall indemnify and hold the STATE and its 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 STATE against and hold harmless the STATE from claims, demands or suits based solely upon the conduct of the STATE, its 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 STATE, its agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence (2) the costs to the STATE of defending such claims and suits 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 STATE shall be at all times as an independent contractor.

The CONSULTANT shall comply with all applicable sections of the State Ethics law, RCW 42.52, which regulates gifts to STATE officers and employees. Under that statute, any STATE officer or employee who has or will participate with the CONSULTANT regarding any aspect of this PROJECT is prohibited from seeking or accepting any gift, gratuity, favor, or anything of economic value from the CONSULTANT. Accordingly, neither the CONSULTANT nor any agent or representative shall offer anything of economic value as a gift, gratuity, or favor directly or indirectly to any such officer or employee.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT'S own employees against the STATE 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 STATE shall be responsible for administration of construction contracts, if any, on the PROJECT. Subject to the processing of a new sole source, or an acceptable supplemental agreement, the CONSULTANT shall provide On-Call assistance to the STATE 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.
- B. Commercial general liability and property damage insurance in an aggregate amount not less than two million dollars (\$2,000,000) for bodily injury, including death and property damage. The per occurrence amount shall not exceed one million dollars (\$1,000,000).
- C. 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 Insurance and any Professional Liability Insurance secured by the CONSULTANT, the State of Washington, Department of Transportation will be named on all policies as an additional insured. The CONSULTANT shall furnish the STATE with verification of insurance and endorsements required by the AGREEMENT. The STATE reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Washington State Department of Transportation
Consultant Service's Office
PO Box 47323
Olympia, WA 98504-7323

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the STATE Consultant Service's Office.

The CONSULTANT'S professional liability to the STATE shall be limited to the accumulative amount of the authorized task order(s) or one million (\$1,000,000) dollars, whichever is the greater. In no case shall the CONSULTANT'S professional liability to third parties be limited in any way.

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

XIV Extra Work

- A. The STATE may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the STATE 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.

- C. The CONSULTANT must submit any "request for equitable adjustment", hereafter referred to as "CLAIM", under this clause within thirty (30) days from the date of receipt of the written order. However, if the STATE decides that the facts justify it, the STATE may receive and act upon a CLAIM submitted before final payment of the AGREEMENT.
- D. 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.
- E. Notwithstanding the terms and conditions of paragraphs (A) and (B) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XV Endorsement of Plans

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

XVI Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the work in progress.

XVII Certification of the Consultant and the State

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the STATE, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENTS over \$100,000 and Exhibit "G-4" is required only in AGREEMENTS over \$500,000.

XVIII Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof

shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

XIX 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 material 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 shown in the "Execution Date" box on page one (1) of this AGREEMENT.

DAVID EVANS and ASSOCIATES Inc.

William W. Madson *Jay Lyman, Sr. Vice President* *May 16, 2005*
Signature *SRVP & CFO* Date

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

M. Lee *May 16, 2005*
Signature Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

EXHIBIT F

COLUMBIA RIVER CROSSING
TYPICAL PATTERNS OF PUBLIC SECTOR AND CONTRACT RELATED IRREGULARITIES

Red Flags of Public Sector Irregularities ¹		CRC?	Comments
1	Failure to Produce documents in a timely manner	Yes	All Public Records requests have been delayed. It took over 6 months to receive contracts and Task Orders and Amendments.
2	Failure to Respond to inquiries in a timely manner	Yes	Many Public Records requests were ignored, not responded to as required by state statutes, etc.
3	Inadequacies in reporting requirements (e.g. untimely reports, incomplete reports, and others)	Yes	CRC project does not have a consolidated method for paying expenditures. Project reporting either does not exist, or does not reconcile to actual documents or source data.
4	Failure to have an adequate information gathering and retrieval system	Yes	See Comments Above
5	Altered or missing documents	Indeterminable	Incomplete data does not allow for determination
6	Photocopied or duplicate documents	Indeterminable	We are provided with photocopies - do not know if originals are present at CRC office
7	Failure to have adequate supporting documentation for reports and summary data	Indeterminable	Incomplete data does not allow for determination

Red Flags of Contract Irregularities ¹		CRC?	Notes
Contract Specification Phase			
1	Providing contractor with information or advice on a preferential basis	Potential	David Evans conducted and/or managed a significant portion of pre-CRC studies (1999-2005)
2	Using statements of work, specification, or sole source justifications developed by, or in consultation with the contractor permitted to bid	Yes	David Evans scoped the project
3	Permitting consultants who assisted in preparing statements of work, specification, or design to perform on the contracts as subcontractors or consultants	Yes	David Evans scoped the project
4	Splitting costs into separate categories to avoid review	Unknown	
5	Poorly written or vague specifications/statements of work	Yes	For example, "Jump start CRC work" (this Task Order was budgeted at \$100,000 but ended up costing \$3.5M)
6	Writing specifications not consistent with past similar procurement	Unknown	

¹ Source: 2011 Fraud Examiners Manual

**COLUMBIA RIVER CROSSING
TYPICAL PATTERNS OF PUBLIC SECTOR AND CONTRACT RELATED IRREGULARITIES**

Red Flags of Contract Irregularities ¹		CRC?	Notes
<i>Bid Submission Phase</i>			
7	Acceptance of late bid	No	The Engineering Bid process is based on "Statements of Qualifications" - according to the CRC, only one team of qualified experts submitted bids.
8	Falsifications of documents or receipts to get a late bid accepted	No	
9	Change in bid after other bidders prices are known	No	
10	Change in bid dates	No	
11	Receipt of late bids	No	
12	Last bid usually receives the bid	No	
<i>Bid-Rigging Schemes</i>			
13	Qualified bidders who later become subcontractors	Yes	HDR and Parson Brinckerhoff appear to be firms who could be primary bidders on the CRC project.
14	Wide disparity in bid prices	No	N/A - Only one bidder
15	Same contractors who bid on all projects with rotating low bidders	Potential	Common to see HDR, Parsons Brinckerhoff, and DEA sharing pieces of WSDOT and ODOT projects
16	Qualified bidders who fail to submit bids	Yes	It is unknown why apparent qualified firms did not submit Statements of Qualifications.
17	Bid protests from losing, qualified bidders	Unknown	
18	Splitting up requirements so contractors can each get a "fair share" and can rotate bids	See note	Common to see HDR, Parsons Brinckerhoff, and DEA sharing pieces of WSDOT and ODOT projects
19	Rotational pattern to winning bidders	Unknown	
20	Geographical pattern to winning bidders	Unknown	
21	Joint venture bids by firms who could have bid individually	Yes	HDR and Parson Brinckerhoff were part of the "David Evans Team"

Other Red Flags		CRC?	Notes
1	Government employee becoming employees of prime contractor	Yes	Numerous WSDOT employees have become employees of prime contractors
2	Charging unallowable costs to buyer	Yes	4% Markup paid to David Evans & Associates
3	Reclassification of employees from indirect to direct charges	Yes	Potential administrative employees charged directly to job
4	Material change orders	Yes	\$50 Million DEA contract alone has been increased by more than 160% (or \$81.5 Million)
5	Vendor listed more than once, with different vendor numbers	Yes	Several contractors are listed with different spellings, etc. - lack of audit trail

¹ Source: 2011 Fraud Examiners Manual

EXHIBIT G



CONSULTANT SERVICES

MOST REQUESTED

- » [Request for Qualifications](#)
- » [Criteria Definitions](#)
- » [Submittals Received](#)
- » [Interview Date](#)
- » [Interview Shortlist](#)
- » [Selection](#)
- » [Submittal Information Form - Prime](#)
- » [Submittal Information Form - Sub](#)
- » [Performance Evaluation Completed by a Reference Form](#)

States of Oregon and Washington Departments of Transportation Notice to Consultants

Columbia River Crossing Project - Environmental Impact Statement

The Washington State Department of Transportation (WSDOT) solicits interest from consulting firms who would like to be evaluated for providing environmental and design services to work collaboratively with the WSDOT and Oregon Department of Transportation (ODOT) Project Team to deliver the environmental phase of the Columbia River Crossing Project. This project is expected to enter the EIS phase (or other required environmental documentation, if an EIS is not required) by Spring/Summer 2005. One (1) agreement will be awarded. The WSDOT/ODOT Project Team anticipates the total cost of the environmental phase to be in excess of \$20 million, with an initial agreement to be in excess of \$6 million, but the total dollar figure will vary upon project requirements and funding. The agreement will be for the duration of the I-5 Columbia River Crossing Project. An effective WSDOT/ODOT and consultant project team will be crucial to successful, on-time, and on-budget project delivery.

To access the RFQ/RFP and information on the Project Description; Submittal Information, Evaluation Criteria; etc., please look to your left under the "Most Requested" column. Click on RFQ/RFP to open the Request for Qualifications / Request for Proposal. Also, in the "Most Requested" column are the links to all of the required forms, etc. in pdf format. If you are unable to open a pdf document, please make sure that you are utilizing the most current version of Adobe Acrobat Reader. If you continue to have problems, please call (360) 705-7104 and provide the following information: Your Name, Firm Name, Phone Number, Fax Number, E-mail address, and title of the RFP/RFQ you are interested in. We will send you a hard copy by either fax or e-mail.

Dates of publication in the Seattle Daily Journal of Commerce: Wednesday, February 16, 2005, and Wednesday, February 23, 2005.

Submittal Due Date: Wednesday, March 23, 2005.

EXHIBIT H