

**WHATCOM COUNTY CONTRACT  
INFORMATION SHEET**

Whatcom County Contract No.

201903046

Originating Department:	Public Works
Division/Program: (i.e. Dept, Division and Program)	905900 / Construction
Contract or Grant Administrator:	James P. Karcher, PE, Engineering Manager
Contractor's / Agency Name:	Pacific CM LLC
Is this a New Contract?    If not, is this an Amendment or Renewal to an Existing Contract?    Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval?    Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement?    Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded?    Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process?    Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): <u>18-54</u> Contract _____ Cost Center: _____	
Is this agreement excluded from E-Verify?    No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>200,000. (100% Local Fund)</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards <b>exceeding \$40,000</b> , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, <b>except when</b> : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: This contract will provide material testing, inspection and geotechnical design services associated with the Public Works Department's Annual Construction Program. It is anticipated that this contract will begin in April, 2019 and end December 31, 2020.	
Term of Contract:	Expiration Date:    December 31, 2020

Contract Routing:	1. Prepared by: <u>M. Jones</u>	Date: <u>03/14/2019</u>
	2. Attorney signoff: <u>Christopher Quinn</u>	Date: <u>03/14/2019</u>
	3. AS Finance reviewed: <u>bbennett</u>	Date: <u>03/18/2019</u>
	4. IT reviewed (if IT related): <u>N/A</u>	Date: <u>N/A</u>
	5. Contractor signed: <u>Pacific CM LLC-Mike Monteleone</u>	Date: <u>03/04/2019</u>
	6. Submitted to Exec.:	Date: <u>3-28-19</u>
	7. Council approved (if necessary): <u>✓</u>	Date: <u>4-9-19</u>
	8. Executive signed: <u>✓</u>	Date: <u>4-10-19</u>
	9. Original to Council: <u>✓</u>	Date: <u>4-12-19</u>

201903046

CONTRACT FOR SERVICES AGREEMENT
2019-2020: Material Testing, Material Inspection, and Construction Inspection Services

Pacific CM LLC, hereinafter called Consultant, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

- General Conditions, pp.1 to 8,
Exhibit A (Scope of Work), pp. 9 to 10,
Exhibit B (Compensation), pp. 11 to 17,
Exhibit C (Certificates of Insurance and endorsements for Consultant and or subconsultants / subcontractors).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 10th day of April, 2019, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2020.

The general purpose or objective of this Agreement is to provide the County with the professional services of Material Testing, Material Inspection and Construction Inspection, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$200,000 (two hundred thousand dollars). The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Consultant acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 10th day of April, 2019.

CONSULTANT:
Pacific CM LLC

Handwritten signature of Mike Monteleone

Mike Monteleone, Construction Manager CCM MIM

STATE OF WASHINGTON )
) ss.
COUNTY OF Snohomish )

On this 4 day of March, 2019, before me personally appeared Michael Monteleone to me known to be the owner/pres (title) of Pacific CM (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

TARA SHAFFER
NOTARY PUBLIC
STATE OF WASHINGTON
MY COMMISSION EXPIRES
09-01-19

Handwritten signature of Tara Shaffer
NOTARY PUBLIC in and for the State of Washington, residing at Lake Stevens. My commission expires 9/1/19



## GENERAL CONDITIONS

### **Series 00-09: Provisions Related to Scope and Nature of Services**

#### 0.1 Scope of Services:

The Consultant agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

### **Series 10-19: Provisions Related to Term and Termination**

#### 10.1 Term:

Services provided by Consultant prior to or after the term of this contract shall be performed at the expense of Consultant and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

#### 11.1 Termination for Default:

If the Consultant defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Consultant in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Consultant's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Consultant shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

#### 11.2 Termination for Reduction in Funding: Not Applicable

#### 11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Consultant shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

### **Series 20-29: Provisions Related to Consideration and Payments**

#### 20.1 Accounting and Payment for Consultant Services:

Payment to the Consultant for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Consultant for any costs or expenses incurred by the Consultant in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Consultant, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

#### 21.1 Taxes:

The Consultant understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Consultant authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Consultant will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Consultant to make the necessary estimated tax payments

throughout the year, if any, and the Consultant is solely liable for any tax obligation arising from the Consultant's performance of this Agreement. The Consultant hereby agrees to indemnify the County against any demand to pay taxes arising from the Consultant's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Consultant must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Consultant's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Consultant has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Consultant the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Consultant to termination or damages, provided that the County promptly gives notice in writing to the Consultant of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Consultant of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Consultant acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Consultant, (3) to set off any amount so paid or incurred from amounts due or to become due the Consultant. In the event the Consultant obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Consultant by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Consultant agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

**Series 30-39: Provisions Related to Administration of Agreement**

30.1 Independent Consultant:

The Consultant's services shall be furnished by the Consultant as an independent Consultant, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Consultant as an independent Consultant.

The Consultant acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Consultant is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Consultant represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Consultant will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Consultant. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Consultant shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Consultant or any employee of the Consultant or any subconsultant or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced:

When the Consultant creates any copyrightable materials or invents any patentable property, the Consultant may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Consultant further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

31.2 Patent/Copyright Infringement:

Consultant will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Consultant infringes any patent or copyright. The Consultant will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

- A. The Consultant shall be notified promptly in writing by the County of any notice of such claim.
- B. Consultant shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Consultant, its employees, subconsultants and/or subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Consultant in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Consultant shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Consultant shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Consultant's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Consultant shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Consultant also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Consultant, then the Consultant agrees to notify the Administrative Officer as soon as it is practical.

34.1 Proof of Insurance:

For the duration of this agreement, the **Consultant** shall carry the following insurance coverages and minimums:

- a. Worker's compensation and employer's liability insurance as required by the STATE.
- b. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- c. Business automobile liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.
- d. Professional Liability - \$1,000,000 per occurrence:

If the professional liability insurance is a claims made policy, and should the Consultant discontinue coverage either during the term of this contract or within three years of completion, the Consultant agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the **County**, their officers, employees, and agents will be named on all policies of the **Consultant** and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The **Consultant** and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The **Consultant** shall furnish the **County** with a Certificate of Liability Insurance and endorsements required by this agreement. The **County** 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.

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

34.2 Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Consultant expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Consultant. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:

The Consultant agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Consultant, its subconsultants, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Consultant, its subconsultants / subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Consultant, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Consultant shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Consultant is governed by such laws, the Consultant shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Consultant shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subconsultants / subcontractors, provided that the foregoing provision shall not apply to contracts or subconsultants / subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Consultant shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition:

Consultant irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and Consultant further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Consultant or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Consultant shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be

compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Consultant to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Consultant also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Consultant hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Marti Jones, Engineering Tech IV  
Whatcom County Public Works Department  
322 N. Commercial St., Ste. 301  
Bellingham, WA 98225-4042  
Phone:(360) 778-6262  
Fax: 360-778-6211  
Email: [mjones@co.whatcom.wa.us](mailto:mjones@co.whatcom.wa.us)

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Consultant to the County's Administrative Officer under this Agreement. Notice to the Consultant for all purposes under this Agreement shall be given to the address provided by the Consultant herein above in the "Consultant Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Consultant's Status under State Law:

Consultant certifies that it has fully met the responsibility criteria required of public works Consultants under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

The Consultant further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Consultant also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Consultant and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Consultant agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Consultant shall immediately notify Whatcom County if, during the term of this Contract, Consultant becomes debarred.

38.3 E-Verify: Not Applicable

**Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes**

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Consultant Commitments, Warranties and Representations:

Any written commitment received from the Consultant concerning this Agreement shall be binding upon the Consultant, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Consultant to fulfill such a commitment shall



render the Consultant liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

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

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

Differences between the Consultant and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Consultant shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Consultant has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Consultant believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Consultant shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Consultant shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Consultant has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

**EXHIBIT "A"**  
(SCOPE OF WORK)

**Pacific CM LLC – 2019 / 2020 Material Testing, Material Inspection and Construction Inspection Services Contract**

The contract will cover on-site construction field inspection, material sample collection, on-site material inspection, and lab testing of concrete, hot mix asphalt (HMA), aggregates and other construction materials for Whatcom County Public Works Projects. **Consultant must have a lab meeting the AASHTO Materials Reference Laboratory's (AMRL) accreditation of "AASHTO R 18" through the life of the Contract.**

**Material Testing (with associated material sample collection as required):**

1. All test procedures shall be in accordance with applicable ASTM, IBC, WSDOT, AASHTO or other procedures as required in projects adhering to the current Washington State Department of Transportation's (WSDOT's) Standard Specifications for Road, Bridge and Municipal Construction, as well as the WSDOT Construction Manual and Whatcom County Road Standards. County will supply or indicate target material specifications to Consultant for each test, and Consultant shall show the target specification on the test result.
2. Initial test results for aggregate gradations, sand equivalents (SE), and fracture shall be available within 48 hours from receipt of materials, unless the County is notified and agrees to a different schedule. Notification shall be primarily via email and telephone call, and secondarily via fax if email is down.
3. HMA oil content initial results shall be available within 8 business operation hours from receipt of material at the testing lab. This test result is critical to verify the quality of material used in the paving operation; therefore, the County requests notification as soon as test is complete via a telephone call. Formal Notification shall follow primarily via email and secondarily via fax if email is down.
4. HMA Rice Density initial results shall be available within 3 hours after Consultant procures hot sample. This test result is critical to verify the quality of material used in the paving operation; therefore, the County requests notification as soon as test is complete via a telephone call. Formal Notification shall follow primarily via email and secondarily via fax if email is down.
5. For 7-Day compressive strength concrete cylinder breaks, County requests early notification (via telephone call) by Consultant if lab technicians or professionals see potential problem with predicted strength of material meeting specifications. Formal Notification shall follow primarily via email and secondarily via fax if email is down.
6. Testing will be performed by qualified technicians and professionals, having certifications to perform the range of tests required by road, bridge and municipal construction projects per testing procedures in the WSDOT Construction Manual.

**Material Inspection:** On a specific project, Consultant may be requested to provide material inspection of field installed materials at the project site. Consultant will provide personnel with appropriate qualifications and expertise in the material(s) being inspected and shall be compensated per the contract's fee schedule for the specific tests and classification of personnel involved.

**Administration:**

1. Consultant shall utilize a project management system that will:
  - a) Allow simultaneous distribution to all project team members of any testing requests and will distribute test results immediately following their completion to all project team members. Testing results shall be available in PDF format through the project management system (i.e. "e-Builder"). For each Project, the County will supply email addresses and telephone numbers of all project team members. Consultant will maintain this data, segregated by Project and identifying project number (i.e. CRP No, if applicable) for the life of the contract.
  - b) Segregate test results by project, display all tests conducted per project and indicate clearly which tests meet or fail project specifications. Each test result or report shall have an identifying number that is distinct from other test results/reports on the same project.
2. Consultant will provide the County with a monthly Statement on the contract dollar amount expended to date during periods of contract activity. The Statement shall summarize, by Project name, Project number (i.e. CRP No, if applicable), each invoice number,

date and amount. This information shall be emailed to the County's administration officer(s) listed in the contract. Consultant shall reference the Whatcom County Contract No. (WCC#) on all correspondence related to this contract.

3. All initial test results and final test reports shall have the Project name and identifying Project number (i.e. CRP No, if applicable) on them. The Consultant will insure this information is obtained when samples are delivered or picked-up at the project site.
4. Tasks, tests and personnel listed on invoices shall use the exact description as they appear on the Consultant's Fee Schedule for the services involved. All mileage distances claimed for reimbursement shall include some backup; mileage reimbursement rate shall match the current federal reimbursement rate (\$/mile).
5. Invoices shall be segregated by Project Name and identifying Project number (i.e. CRP No, if applicable) and all tests being billed for on the invoice should indicate the identifying test report number.

#### **Construction Inspection Services:**

On a specific project, Consultant may be requested to provide construction inspection services associated with Whatcom County's Public Works Contracts. Consultant will provide personnel with appropriate qualifications and expertise and shall be compensated per the contract's fee schedule for the classification of personnel involved.

Consultant Field Inspector will report to a specific Whatcom County Public Works' Project Engineer on each assigned project. The duties of both Engineer and Inspector shall conform to responsibilities detailed in the current edition of the WSDOT Standard Specifications and WSDOT Construction Manual.

The Project Engineer (County) and Consultant Field Inspector will formalize the extent of duties required for each assigned project, which would typically include some or all of the following:

1. Reports & Documentation generation & acquisition:
  - a) Generate: Inspectors Daily Report & Weekly Statement of Working Days, required Interviews using forms supplied by the County.
  - b) Receive: Traffic Control Reports from Consultant, Material Quantity Tickets (gravel, HMA, concrete, scalesmans daily reports & misc. materials invoices, etc.).
2. Materials Acceptance & documentation & tracking (ROM & RAM'S):
  - a) Coordinate with Project Engineer to validate & track required materials documentation. Ensure ongoing compliance with required construction documentation during the entire life of the project, with the ROM being the primary guiding document. Whatcom County Project Engineer will modify and make all changes to the ROM. Field Inspectors will be need to be knowledgeable of the ROM, and with direction from the Project Engineer, ensure compliance with needed material tests and documentation.
  - b) Prior to installation required documentation may include: Manufacturer's Certificate of Compliance (MCC), Qualified Products List Cover Sheet (QPL), Catalog Cut, Certificate of Materials Origin (CMO), Satisfactory Test Reports, Lot or Roll Numbers, "WSDOT Inspected" Stamp if required.

**EXHIBIT "B"**  
(COMPENSATION)

**Pacific CM LLC – 2019 / 2020 Material Testing, Material Inspection and Construction Inspection Services Contract**

PACIFIC CM							
Item	Description	Unit	Rate	Mark Up	Billed Rate		
CM QA Inspections	Construction Manager Inspection	HR			\$135.00 / \$150.00 OT		
QA/QC Inspections	Quality Assurance / Quality Control Inspection	HR			\$121.00 / \$136.00 OT		
Document Controls		HR			\$89.35		
SUBCONTRACTED SERVICES (MTC, Inc.)							
(01) EARTHWORK & ASPHALT SERVICES							
Item	Description	Unit	Rate	Mark Up	Billed Rate		
Field Technician	Soils & Asphalt Compaction (IPD-S, IPD-A)	Hour	\$ 55.00	15%	\$63.25		
(02) LABORATORY FOR EARTHWORK							
Test Description	ASTM	AASHTO	Unit	Rate	Mark Up	Billed Rate	
% Passing # 200 Sieve	C117	T11	Each	\$ 40.00	10%	\$44.00	
Accelerated Weathering	CRD C148		Each	\$ 300.00	10%	\$330.00	
Additional Tests Not Listed			Quoted Per Project		12%		
Asphalt Extraction with Gradation	D6307	T308	Each	\$ 250.00	10%	\$275.00	
Atterberg Limits (Plasticity Index) - 1 point	D4318	T89, T90	Each	\$ 60.00	10%	\$66.00	
Atterberg Limits (Plasticity Index) - 3 points	D4318	T89, T90	Each	\$ 150.00	10%	\$165.00	
California Bearing Ratio 3-point	D1883	T193	Each	\$ 625.00	10%	\$687.50	
Clay Lumps and Friable Particles	C142	T112	Each	\$ 80.00	10%	\$88.00	
Durability Index / Degradation Value	WSDOT T113	T210	Each	\$ 190.00	10%	\$209.00	
Flat/Elongated Particles	D4791		Each	\$ 75.00	10%	\$82.50	
Fracture Percentage	D5821		Each	\$ 60.00	10%	\$66.00	
Hydrometer Analysis with Sieve Analysis	D422	T88	Each	\$ 185.00	10%	\$203.50	
LA Abrasion	C131, C535	T96	Each	\$ 250.00	10%	\$275.00	
Marshall Stability & Flow, 3 specimens	D6926, D6927	T245	Each	\$ 400.00	10%	\$440.00	
Mix Design Marshall Method, 3 trials & specimens	D6926, D6927	T245	Each	\$ 1,500.00	10%	\$1,650.00	

Moisture-Density Relationship/Proctor with Sieve	D698, D1557	T99, T180	Each	\$ 265.00	10%	\$291.50
Moisture Density Relationship/Proctor without Sieve	D698, D1557	T99, T180	Each	\$ 215.00	10%	\$236.50
Moisture Density Relationship/Proctor with Sieve - Cement Treated Base	D698, D1558	T99, T181	Each	\$ 350.00	10%	\$385.00
Natural Moisture Content	D2216		Each	\$ 20.00	10%	\$22.00
Organic Content, Loss by Ignition	D2974		Each	\$ 80.00	10%	\$88.00
Organic Impurities	C40	T21	Each	\$ 60.00	10%	\$66.00
Particle Size Distribution - Sieve / Pipette	PSEP		Each	\$ 125.00	10%	\$137.50
Rice Density	D2041	T209	Each	\$ 95.00	10%	\$104.50
Salt Correction for PSEP			Each	\$ 15.00	10%	\$16.50
Sand Cone Density Test	D1556	T191	Each	\$ 35.00	10%	\$38.50
Sand Equivalent	D2419	T176	Each	\$ 90.00	10%	\$99.00
Sieve Analysis – Dry Only/Gradation	C136	T27	Each	\$ 85.00	10%	\$93.50
Sieve Analysis with #200 Wash/Combined Gradation	C136, C117	T88	Each	\$ 115.00	10%	\$126.50
Soils-Cement Mix Design				Quoted Per Project	12%	
Soundness of Aggregates by Magnesium or Sodium Sulfate	C88	T104	Each	\$ 300.00	10%	\$330.00
Specific Gravity and Absorption of Coarse Aggregate	C127	T85	Each	\$ 60.00	10%	\$66.00
Specific Gravity and Absorption of Fine Aggregate	C128	T84	Each	\$ 90.00	10%	\$99.00
Specific Gravity of Soils	D854	T100	Each	\$ 75.00	10%	\$82.50
Superpave Test Set - Includes Volumetric Properties, Extraction / Gradation, Rice	WSDOT 731		Each	\$ 525.00	10%	\$577.50
Uncompacted Void Content	C1252	T304	Each	\$ 110.00	10%	\$121.00
Unit Weight & Voids in Aggregate	C29	T19	Each	\$ 60.00	10%	\$66.00
Visual Classification	D2487		Each	\$ 50.00	10%	\$55.00
<b>(02) LABORATORY FOR EARTHWORK - Advanced / Secondary Geotechnical Testing</b>						
Aggregate Freeze-Thaw Durability	D5312		Each	\$ 1,200.00	10%	\$1,320.00

Aggregate Wet-Dry Durability		D5313		Each	\$ 1,200.00	10%	\$1,320.00
Bulk Density (Wet / Dry) - Soils - Remolded		D7263, E110	EPA9100.9	Each	\$ 50.00	10%	\$55.00
Capillary and Aeration Porosity		F1815		Each	\$ 250.00	10%	\$275.00
Carbonate Determination		D4373		Each	\$ 30.00	10%	\$33.00
Centrifugation, Water, up to 1 L		USACE		Each	\$ 35.00	10%	\$38.50
Centrifugation, Solids, up to 1 L		USACE		Each	\$ 55.00	10%	\$60.50
Collapse Potential of Soil		D5333		Each	\$ 400.00	10%	\$440.00
Column Leach Test		D4874		Each	Quote	12%	
Column Settling Test		USACE		Each	Quote	12%	
Consolidation, Primary		D2435		Each	\$ 500.00	10%	\$550.00
Consolidation, Secondary		D2436		Each	\$ 750.00	10%	\$825.00
Direct Shear, 3 points		D3080		Each	\$ 600.00	10%	\$660.00
Effective Porosity - Includes Rigid Wall Permeability				Each	\$ 550.00	10%	\$605.00
Effective Porosity - Includes Flex Wall Permeability				Each	\$ 700.00	10%	\$770.00
Expansion Index		D4829		Each	\$ 210.00	10%	\$231.00
Particle Size Distribution, by Laser Diffraction		TAPE 2008, 2011		Each	\$ 90.00	10%	\$99.00
Particle Size Distribution, by Laser Diffraction Only				Each	\$ 80.00	10%	\$88.00
Maximum Media Density (Green Roofs)		D2399		Each	\$ 500.00	10%	\$550.00
One Dimensional Swell or Collapse of Soil		D4546		Each	\$ 600.00	10%	\$660.00
Permeability: Failing Head		WSDOT 605		Each	\$ 250.00	10%	\$275.00
Permeability: Flexible Wall (triaxial)		D5084		Each	\$ 450.00	10%	\$495.00
Permeability: Rigid Wall		D2434		Each	\$ 300.00	10%	\$330.00
Total Porosity - Includes Bulk Density & Specific Gravity of Soils		EM-1110-21906		Each	\$ 140.00	10%	\$154.00
Sedigraph		USACOE		Each	\$ 125.00	10%	\$137.50
Sediment Concentration in Water		D3977		Each	\$ 60.00	10%	\$66.00

Sediment Pore Water Extraction, Anaerobic		USACOE		Each	\$ 115.00	10%	\$126.50
Settleable Solids		SM2540F		Each	\$ 30.00	10%	\$33.00
Shelby Tube Extrusion w/ Description				Each	\$ 45.00	10%	\$49.50
Soil pH		D4972		Each	\$ 35.00	10%	\$38.50
Soil Resistivity		G187		Each	\$ 85.00	10%	\$93.50
Specific Gravity of Liquids		D1298, D891		Each	\$ 45.00	10%	\$49.50
Specific Yield / Centrifuge Moisture Equivalent		D425		Each	\$ 50.00	10%	\$55.00
Total Suspended Solids		SM2540D		Each	\$ 50.00	10%	\$55.00
Triaxial Shear - QU - Unconfined Compressive Strength		D2166		Each	\$ 120.00	10%	\$132.00
Triaxial Shear Testing - UU - Unconsolidated, Undrained		D2850		Each	\$ 200.00	10%	\$220.00
Triaxial Shear Testing - CU - Consolidated, Undrained		D4767		Each	\$ 1,500.00	10%	\$1,650.00
Triaxial Shear Testing - CD - Consolidated, Drained		D7181		Each	\$ 1,500.00	10%	\$1,650.00
Unit Weight of Soils - Ring		D2937		Each	\$ 45.00	10%	\$49.50
Unit Weight of Soils - Shelby Tube		D2938		Each	\$ 40.00	10%	\$44.00
Youngs Modulus of Elasticity				Each	\$ 120.00	10%	\$132.00

**(03) SPECIAL & CONSTRUCTION INSPECTION**

Item	Description			Unit	Rate		
Special Inspector I	Reinforced Concrete, Prestressed Concrete, Shotcrete, Structural Masonry, Spray Applied Fire Resistive Materials, Proprietary Anchors			Hour	\$ 60.00	15%	\$69.00
Special Inspector II	Structural Steel & Welding, High Strength Bolting,			Hour	\$ 70.00	15%	\$80.50
Special Inspector III	Lateral Wood and Cold Formed Steel Framing			Hour	\$ 65.00	15%	\$74.75
Pachometer / Rebar Locate	In situ reinforcement location			Hour	\$ 90.00	10%	\$99.00
Schmidt Hammer	In situ concrete strength measurement			Hour	\$ 90.00	10%	\$99.00

**(04) LAB FOR SPECIAL & CONSTRUCTION INSPECTION**

Test Description	ASTM	AASHTO	Unit	Rate		
Air Dry Density of Concrete	C567		Each	\$ 40.00	10%	\$44.00


Anchor Bolt Pull Testing - One Man Crew				Hour	\$ 90.00	15%	\$103.50
Concrete Compression Strength Test Sawed Section		C42	T24	Each	\$ 65.00	10%	\$71.50
Concrete Compression Test Cylinders - 4" x 8"		C31, C39	T22, T23	Each	\$ 20.00	10%	\$22.00
Concrete Compression Test Cylinders - 6" x 12"		C31, C39	T22, T23	Each	\$ 28.00	10%	\$30.80
Concrete Compression Test Cylinders - not cast by MTC		C31, C39	T22, T23	Each	\$ 30.00	10%	\$33.00
Concrete Core Compressive Strength Test (includes trimming and testing)				Each	\$40.00	10%	\$44.00
Concrete Core Thickness		C174, C1542		Each	\$ 30.00	10%	\$33.00
Concrete Flexural Beams		C78	T97	Each	\$ 60.00	10%	\$66.00
Concrete Shrinkage (minimum 3 samples)		C596		Each	\$ 100.00	10%	\$110.00
Fireproofing Cohesion / Adhesion Tests		E736		Each	\$ 30.00	10%	\$33.00
Fireproofing Density Test		E605		Each	\$ 60.00	10%	\$66.00
Grout Compressive Strength Test		C1019		Each	\$ 25.00	10%	\$27.50
Grout Compressive Strength Test - 2x2 Cube		C109		Each	\$ 24.00	10%	\$26.40
Masonry Prism Compression Test		C1314		Each	\$ 100.00	10%	\$110.00
Masonry Unit Compression Test		C140		Each	\$ 55.00	10%	\$60.50
Masonry Unit Absorption, Unit Weight & Moisture Content		C140		Each	\$ 55.00	10%	\$60.50
Moisture Emission Test Kit - Installation & Retrieval Labor Not Included		F1869		Each	\$ 25.00	10%	\$27.50
Mortar Compressive Strength		C780		Each	\$ 24.00	10%	\$26.40
Relative Humidity Test Probe Sleeves		F2170		Each	\$ 2.50	10%	\$2.75
Scaling Resistance of Concrete		C672		Per Set of 2	\$ 800.00	10%	\$880.00
Set Times, Initial and Final		C403		Each	\$ 75.00	10%	\$82.50
Shotcrete Compression Test (1-Panel includes 4Cores)		C1604		Each	\$ 150.00	10%	\$165.00
Shotcrete Cores - Additional		C1604		Each	\$ 75.00	10%	\$82.50
Trial Batch - 6 Cylinders		C192		Quoted Per		12%	



				Project			
Trimming Cores/Cylinders				Each	\$ 15.00	10%	\$16.50
Unit Weight and Yield		C138	T121	Each	\$ 35.00	10%	\$38.50
Voids and Density of Hardened Concrete		C642		Each	\$ 75.00	10%	\$82.50
<b>(05) GEOTECHNICAL ENGINEERING &amp; CONSULTING</b>							
Item	Description			Unit	Rate		
Professional Engineer	Professional Civil / Geotechnical Engineering & Consulting			Hour	\$ 135.00	15%	\$155.25
Staff Engineer	Engineering Support			Hour	\$ 95.00	15%	\$109.25
Environmental Consulting				Hour	\$ 95.00	15%	\$109.25
Environmental Sampling	Rush + 15%			Hour	\$ 75.00	15%	\$86.25
Geotechnical Consulting	Bearing Capacity, Shoring & Piling Installation, Visual S			Hour	\$ 95.00	15%	\$109.25
In-Field Infiltration	P.I.T., Percolation tests			Hour	\$ 85.00	15%	\$97.75
CESCL Field Services	Site Turbidity and/or pH Monitoring			Hour	\$ 65.00	15%	\$74.75
CESCL - Management	Reporting, Consulting & Program Management			Hour	\$ 75.00	15%	\$86.25
Dynamic Cone Penetrometer	Equipment			Daily	\$ 20.00	15%	\$23.00
Dynamic Cone Penetrometer	Equipment - Drive Points			Each	\$ 10.00	15%	\$11.50
Turbidity Meter	Equipment			Daily	\$ 20.00	15%	\$23.00
<b>(05) ENVIRONMENTAL CONSULTING</b>							
Item	Description			Unit	Rate		
Phase I Assessment				Quoted Per Project		12%	
Phase II Assessment				Quoted Per Project		12%	
<b>(11) NON-DESTRUCTIVE TESTING</b>							
Item	Description			Unit	Rate		
Ground Penetrating Radar	Reinforcement & Tendon Location, Geotechnical & Environmental Site Exploration, Utility Location; 2			Hour	\$ 125.00	10%	\$137.50
Special Inspector III	Ultrasonic Testing (UT), Magnetic Particle Testing (MT)			Hour	\$ 95.00	15%	\$109.25
<b>(13) CORING SERVICES</b>							
Item	Description	ASTM	AASHTO	Unit	Rate		
Asphalt Core Density	Minimum 3 cores	D2726	T166	Each	\$ 60.00	10%	\$66.00

Asphalt Thickness	Minimum 3 cores	D3549		Each	\$ 35.00	10%	\$38.50
Coring Services	Asphalt & Concrete Coring (call for size availability)			Hour	\$ 120.00	10%	\$132.00
Core Bit Wear Charge	Equipment charge			Inch	\$ 3.50	10%	\$3.85
Core Compression Test		C42	T24	Each	\$ 24.00	10%	\$26.40
<b>(14) FLOOR FLATNESS / FLOOR LEVELNESS INSPECTION</b>							
<b>Item</b>	<b>Description</b>			<b>Unit</b>	<b>Rate</b>		
Floor Flatness	F-Number assessment of flatness and levelness of concrete			Hour	\$ 95.00	10%	\$104.50
<b>(30) PROJECT MANAGEMENT &amp; CONSULTING SERVICES</b>							
<b>Item</b>	<b>Description</b>			<b>Unit</b>	<b>Rate</b>		
Construction Manager / CQM	NAVFAC Construction Quality Manager, Resident			Hour	\$ 80.00	15%	\$92.00
Project Manager	Meetings, Report Review, Final Letter			Hour	\$ 70.00	15%	\$80.50
Technical Director	Forensic & Diagnostic Investigation, Expert Witness			Hour	\$ 120.00	15%	\$138.00
<b>ADDITIONAL CHARGES WHEN APPLICABLE</b>							
Mileage	Calculated at County Line; Mileage only charged when mutually agreed upon by both parties for out of the ordinary circumstances			PM	Current IRS Standard Mileage Rate		
Copies	When requested			PP	\$0.10 BW \$0.25 Color		\$0.10 BW \$0.25 Color
Parking	Parking where payment required			Per Visit	\$ 15.00		\$15.00
Courier	When express delivery is requested			Per Svcs	\$ 28.00		\$28.00

Exhibit C

<b>CERTIFICATE OF LIABILITY INSURANCE</b>					DATE (MM/DD/YY)																
<b>PRODUCER</b> CHRIS FAVERTY INSURANCE AGENCY, INC. 4121 S. MERIDIAN, SUITE 1-A PUYALLUP, WA 98373 PHONE 253-841-4800 FAX 253-841-4801					THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER, THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.																
<b>INSURED</b> Pacific CM, LLC 999 Third Ave Suite 700 Seattle, WA 98104					COMPANY A: Mesa Underwriters Specialty Ins Co COMPANY B: Truck Insurance Exchange COMPANY C: Arch Specialty Insurance Company COMPANY D:																
COVERAGES																					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OF CONDITION ON ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCE BY PAID CLAIMS.																					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS																
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S CONT PROT	MP-0046006007908	9/9/2018	9/9/2019	<table border="1" style="width:100%; border-collapse: collapse; font-size: x-small;"> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$2,000,000</td></tr> <tr><td>PRODUCTS-COMP/OP AGG.</td><td style="text-align: right;">\$2,000,000</td></tr> <tr><td>PERSONAL &amp; ADV. INJURY</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>FIRE DAMAGE (Any one fire)</td><td style="text-align: right;">\$100,000</td></tr> <tr><td>MED. EXPENSE (Any one person)</td><td style="text-align: right;">\$5,000</td></tr> </table>	GENERAL AGGREGATE	\$2,000,000	PRODUCTS-COMP/OP AGG.	\$2,000,000	PERSONAL & ADV. INJURY	\$1,000,000	EACH OCCURRENCE	\$1,000,000	FIRE DAMAGE (Any one fire)	\$100,000	MED. EXPENSE (Any one person)	\$5,000				
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B	<b>AUTOMOTIVE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	606713521	9/9/2018	9/9/2019	<table border="1" style="width:100%; border-collapse: collapse; font-size: x-small;"> <tr><td>COMBINED SINGLE LIMIT</td><td style="text-align: right;">1,000,000</td></tr> <tr><td>BODILY INJURY (Per person)</td><td></td></tr> <tr><td>BODILY INJURY (Per accident)</td><td></td></tr> <tr><td>PROPERTY DAMAGE</td><td></td></tr> <tr><td>AUTO ONLY - EA ACCIDENT</td><td></td></tr> <tr><td>OTHER THAN AUTO ONLY</td><td></td></tr> <tr><td>EA ACCIDENT</td><td></td></tr> <tr><td>AGGREGATE</td><td></td></tr> </table>	COMBINED SINGLE LIMIT	1,000,000	BODILY INJURY (Per person)		BODILY INJURY (Per accident)		PROPERTY DAMAGE		AUTO ONLY - EA ACCIDENT		OTHER THAN AUTO ONLY		EA ACCIDENT		AGGREGATE	
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS 2019-2020 MATERIAL TESTING, MATERIAL INSPECTION, AND CONSTRUCTION INSPECTION SERVICES																					
CERTIFICATE HOLDER			CANCELLATION																		
WHATCOM COUNTY 322 N. COMMERCIAL ST. SUITE 301 BELLINGHAM, WA 98225			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY ON ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.																		
			 AUTHORIZED REPRESENTATIVE, FAVERTY INSURANCE AGENCY																		
FAVFORM G Cert (6/06)			FAV FORMS, INC. (6/06)																		

MESA UNDERWRITERS SPECIALTY  
INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LIMITED AI – PRIMARY NON-CONTRIBUTORY –  
WAIVER OF SUBROGATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

**Blanket Additional Insureds - As Required By Contract**

**A.** Subject to the Primary and Non-Contributory provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization whom you have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury" or "property damage" or, to the extent applicable under the Coverage Part to which this endorsement applies, "personal and advertising injury" caused, in whole or in part, by:

1. Your ongoing operations, "your product", or premises owned or used by you;

With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or, to the extent applicable under the Coverage Part to which this endorsement applies, "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services by or for you, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrong-doing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or, to the extent applicable under the Coverage Part to which this endorsement applies, the offense which caused the "personal and advertising injury", involved the rendering of, or failure to render, any professional architectural, engineering or surveying services.

2. Your maintenance, operation or use of equipment, other than aircraft, "auto" or watercraft, rented or leased to you by such person or organization. A person or organization's status as an additional insured under this endorsement ends when their contract, or agreement with you for such rented or leased equipment ends. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the rental agreement or equipment lease expires.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been executed (executed means signed by the named insured) or written permit issued prior to the "bodily injury" or "property damage" or, to the extent applicable under the Coverage Part to which this endorsement applies, "personal and advertising injury".

### **Primary and Non-Contributory Provision**

The following is added to Paragraph **4. Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

This insurance shall be excess with respect to any person or organization included as an additional insured under this policy, any other insurance that person or organization has shall be primary with respect to this insurance, unless:

- 1) The additional insured is a Named Insured under such other insurance;
- 2) You have agreed in a written contract, written agreement or written permit to include that additional insured on your General Liability policy on a primary and/or non-contributory basis;
- 3) The written contract or written agreement has been executed (executed means signed by the named insured) or written permit issued prior to the "bodily injury" or "property damage" or, to the extent applicable under the Coverage Part to which this endorsement applies, "personal and advertising injury"; and
- 4) With respect to indemnity, you have been adjudicated liable in full for the "bodily injury" or "property damage" or, to the extent applicable under the Coverage Part to which this endorsement applies, "personal and advertising injury".

### **Waiver Of Transfer Of Rights Of Recovery**

The following is added to Paragraph **8. Transfer of Rights Of Recovery Against Others To Us** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

We will waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury" or "property damage" arising out of your ongoing operations or "your work" done under a written contract or written agreement and included in the "products-completed operations hazard", if:

1. You have agreed to waive any right of recovery against that person or organization in a written contract or written agreement;
2. Such person or organization is an additional insured on your policy; or
3. You have assumed the liability of that person or organization in that same contract, and it is an "insured contract".

The section above only applies to that person or organization identified above, and only if the "bodily injury" or "property damage" occurs subsequent to the execution of the written contract or written agreement.

All other terms and conditions of this policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**STOP GAP – EMPLOYERS LIABILITY COVERAGE  
ENDORSEMENT – WASHINGTON**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

**SCHEDULE**

<b>Limits Of Insurance</b>		
Bodily Injury By Accident	\$ 1,000,000	Each Accident
Bodily Injury By Disease	\$ 1,000,000	Aggregate Limit
Bodily Injury By Disease	\$ 1,000,000	Each Employee

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

**A. The following is added to Section I – Coverages:**

**COVERAGE – STOP GAP – EMPLOYERS LIABILITY**

**1. Insuring Agreement**

a. We will pay those sums that the insured becomes legally obligated by Washington Law to pay as damages because of "bodily injury by accident" or "bodily injury by disease" to your "employee" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any accident and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in **Section III – Limits Of Insurance**; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under this coverage.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to "bodily injury by accident" or "bodily injury by disease" only if:

(1) The:

- (a) "Bodily injury by accident" or "bodily injury by disease" takes place in the "coverage territory";
- (b) "Bodily injury by accident" or "bodily injury by disease" arises out of and in the course of the injured "employee's" employment by you; and
- (c) "Employee", at the time of the injury, was covered under a worker's compensation policy and subject to a "workers compensation law" of Washington; and

(2) The:

- (a) "Bodily injury by accident" is caused by an accident that occurs during the policy period; or

- (b) "Bodily injury by disease" is caused by or aggravated by conditions of employment by you and the injured "employee's" last day of last exposure to the conditions causing or aggravating such "bodily injury by disease" occurs during the policy period.
- c. The damages we will pay, where recovery is permitted by law, include damages:

(1) For:

- (a) Which you are liable to a third party by reason of a claim or "suit" against you by that third party to recover the damages claimed against such third party as a result of injury to your "employee";
- (b) Care and loss of services; and
- (c) Consequential "bodily injury by accident" or "bodily injury by disease" to a spouse, child, parent, brother or sister of the injured "employee";

provided that these damages are the direct consequence of "bodily injury by accident" or "bodily injury by disease" that arises out of and in the course of the injured "employee's" employment by you; and

- (2) Because of "bodily injury by accident" or "bodily injury by disease" to your "employee" that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

## 2. Exclusions

This insurance does not apply to:

### a. Intentional Injury

"Bodily injury by accident" or "bodily injury by disease" intentionally caused or aggravated by you, or "bodily injury by accident" or "bodily injury by disease" resulting from an act which is determined to have been committed by you if it was reasonable to believe that an injury is substantially certain to occur.

### b. Fines Or Penalties

Any assessment, penalty, or fine levied by any regulatory inspection agency or authority.

### c. Statutory Obligations

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### d. Contractual Liability

Liability assumed by you under any contract or agreement.

### e. Violation Of Law

"Bodily injury by accident" or "bodily injury by disease" suffered or caused by any employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your "executive officers".

### f. Termination, Coercion Or Discrimination

Damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any "employee", or arising out of other employment or personnel decisions concerning the insured.

### g. Failure To Comply With "Workers Compensation Law"

"Bodily injury by accident" or "bodily injury by disease" to an "employee" when you are:

- (1) Deprived of common law defenses; or
- (2) Otherwise subject to penalty; because of your failure to secure your obligations or other failure to comply with any "workers compensation law".

### h. Violation Of Age Laws Or Employment Of Minors

"Bodily injury by accident" or "bodily injury by disease" suffered or caused by any person:

- (1) Knowingly employed by you in violation of any law as to age; or
- (2) Under the age of 14 years, regardless of any such law.

### i. Federal Laws

Any premium, assessment, penalty, fine, benefit, liability or other obligation imposed by or granted pursuant to:

- (1) The Federal Employer's Liability Act (45 USC Section 51-60);
- (2) The Non-appropriated Fund Instrumentalities Act (5 USC Sections 8171-8173);

- (3) The Longshore and Harbor Workers' Compensation Act (33 USC Sections 910-950);
- (4) The Outer Continental Shelf Lands Act (43 USC Section 1331-1356);
- (5) The Defense Base Act (42 USC Sections 1651-1654);
- (6) The Federal Coal Mine Health and Safety Act of 1969 (30 USC Sections 901-942);
- (7) The Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872);
- (8) Any other workers compensation, unemployment compensation or disability laws or any similar law; or
- (9) Any subsequent amendments to the laws listed above.

**j. Punitive Damages**

Multiple, exemplary or punitive damages.

**k. Crew Members**

"Bodily injury by accident" or "bodily injury by disease" to a master or member of the crew of any vessel or any member of the flying crew of an aircraft.

**B. The Supplementary Payments** provisions apply to Coverage – Stop Gap Employers Liability as well as to Coverages **A** and **B**.

**C. For the purposes of this endorsement, Section II – Who Is An Insured, is replaced by the following:**

If you are designated in the Declarations as:

- 1. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- 2. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- 3. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- 4. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

**D. For the purposes of this endorsement, Section III – Limits Of Insurance, is replaced by the following:**

- 1. The Limits of Insurance shown in the Schedule of this endorsement and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
- 2. The "Bodily Injury By Accident" – Each Accident Limit shown in the Schedule of this endorsement is the most we will pay for all damages covered by this insurance because of "bodily injury by accident" to one or more "employees" in any one accident.
- 3. The "Bodily Injury By Disease" – Aggregate Limit shown in the Schedule of this endorsement is the most we will pay for all damages covered by this insurance and arising out of "bodily injury by disease", regardless of the number of "employees" who sustain "bodily injury by disease".
- 4. Subject to Paragraph **D.3.** of this endorsement, the "Bodily Injury By Disease" – Each "Employee" Limit shown in the Schedule of this endorsement is the most we will pay for all damages because of "bodily injury by disease" to any one "employee".

The limits of the coverage apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.



E. For the purposes of this endorsement, Condition 2. – **Duties In The Event Of Occurrence, Claim Or Suit** of the Conditions Section IV is deleted and replaced by the following:

**2. Duties In The Event Of Injury, Claim Or Suit**

a. You must see to it that we or our agent are notified as soon as practicable of a "bodily injury by accident" or "bodily injury by disease" which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "bodily injury by accident" or "bodily injury by disease" took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the injury, claim, proceeding or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us and assist us, as we may request, in the investigation or settlement of the claim or defense against the "suit";
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury to which this insurance may also apply; and
- (5) Do nothing after an injury occurs that would interfere with our right to recover from others.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

F. For the purposes of this endorsement, Paragraph 4. of the **Definitions** Section is replaced by the following:

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
- c. All other parts of the world if the injury or damage arises out of the activities of a person whose home is in the territory described in a. above, but who is away for a short time on your business;

provided the insured's responsibility to pay damages is determined in the United States (including its territories and possessions), Puerto Rico, or Canada, in a suit on the merits according to the substantive law in such territory, or in a settlement we agree to.

G. The following are added to the **Definitions** Section:

1. "Workers Compensation Law" means the Workers Compensation Law and any Occupational Disease Law of Washington. This does not include provisions of any law providing non-occupational disability benefits.
2. "Bodily injury by accident" means bodily injury, sickness or disease sustained by a person, including death, resulting from an accident. A disease is not "bodily injury by accident" unless it results directly from "bodily injury by accident".
3. "Bodily injury by disease" means a disease sustained by a person, including death. "Bodily injury by disease" does not include a disease that results directly from an accident.

H. For the purposes of this endorsement, the definition of "bodily injury" does not apply.

Jon Hutchings  
Director



Joseph P. Rutan, P. E.  
County Engineer/Assistant Director  
322 N. Commercial Street, Ste 301  
Bellingham, WA 98225-4042  
Phone: (360) 778-6210  
Fax: (360) 778-6211

# Memorandum

RECEIVED

MAR 28 2019

JACK LOUWS  
COUNTY EXECUTIVE

**To:** The Honorable Jack Louws, Whatcom County Executive and  
The Honorable Members of the Whatcom County Council

**Through:** Jon Hutchings, Director

**From:** Joseph P. Rutan, P.E., County Engineer/Assistant Director *JPR*  
James P. Karcher, P.E., Engineering Manager *JK*

**Date:** March 19, 2019

**Re:** Materials Testing, Material Inspection and Construction Inspection Services  
**Contract for Services Agreement – Pacific CM LLC**

---

Enclosed for your review and signature are two (2) originals each of the above referenced contract between Pacific CM LLC and Whatcom County.

## Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to enter into a contract with the selected consultant in the amount of \$200,000.

## Background and Purpose

The contract will cover material sample collection, on-site material inspection, on-site construction inspection, the testing of concrete, hot mix asphalt (HMA), aggregates and other construction materials for various Whatcom County Public Works Projects in the 2019-2020 program years.

Pacific CM LLC was determined by the selection committee as the most qualified of the two (2) firms that responded to the Request for Qualifications (RFQ No. 18-54) and subsequent interviews.

## Funding Amount and Source

Sufficient Local Road Funds exist within the budget to cover all anticipated material testing, material inspection and construction inspection services to be performed under this contract.

Please contact Marti Jones at extension 6262 with any questions regarding this contract.