

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF STANWOOD AND TRIAD ASSOCIATES
FOR SURVEY AND ON-CALL SERVICES**

THIS AGREEMENT, made and entered into in Stanwood County, Washington, by and between the CITY OF STANWOOD, hereinafter called the "City", and Triad Associates, a Washington corporation, hereinafter called the "Consultant".

WHEREAS, the Consultant has represented, and by entering into this Agreement now represents, that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this agreement are fully qualified and properly licensed to perform the work to which they will be assigned.

NOW THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein below, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this agreement is to provide the City with survey and on-call services for capital projects as described in Article II. The general terms and conditions of relationships between the City and the Consultant are specified in this agreement.

ARTICLE II. SCOPE OF WORK

The scope of work is set out in the attached Estimate of Professional Services, herein after referred to as the "scope of services" **Exhibit A**. All services and materials necessary to accomplish the tasks outlined in **Exhibit A** shall be provided by the Consultant, unless noted otherwise in the scope of services or this agreement.

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

3.1 MINOR CHANGES IN SCOPE. The Consultant shall accept minor changes, amendments, or revisions in the detail of the work as may be required by the City when such changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

Extra Work. The City may desire to have the Consultant perform work or render services in connection with each project in addition to or other than work provided for by the expressed intent of the scope of work in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which

will set forth the nature and the scope thereof. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

3.2 WORK PRODUCT AND DOCUMENTS. The work product and all documents listed in the scope of services shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

In the event that the Consultant shall default on this agreement or in the event that this contract shall be terminated prior to its completion as herein provided, all work product of the Consultant, along with a summary of work done to date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this contract. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of these documents or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

3.3 TIME OF PERFORMANCE. The Consultant shall be authorized to begin work under the terms of this agreement upon signing of both the scope of services and this agreement and shall complete the work by July 1, 2014, unless a mutual written agreement is signed to change the schedule. An extension of the time for completion may be given by the City due to conditions not expected or anticipated at the time of execution of this agreement.

3.4 NON-ASSIGNABLE. The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

3.5 EMPLOYMENT. Any and all employees of the Consultant, while engaged in the performance of any work or services required by the Consultant under this agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

3.6 INDEMNITY.

a. The Consultant will at all times indemnify and hold harmless and defend the City, its elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's

fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omission of the Consultant in performance of Consultant's professional services under this agreement. The term "claims" as used herein shall mean all claims, lawsuits, causes of action, and other legal actions and proceedings of whatsoever nature, involving bodily or personal injury or death of any person or damage to any property including, but not limited to, persons employed by the City, the Consultant or other person and all property owned or claimed by the City, the Consultant, or affiliate of the Consultant, or any other person.

b. Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its members, officers, employees and agents, the Consultant's liability to the City, by way of indemnification, shall be only to the extent of the Consultant's negligence.

c. The provisions of this section shall survive the expiration or termination of this agreement.

3.7 INSURANCE.

a. **Minimum Limits of Insurance.** The Consultant shall, before commencing work under this agreement, file with the City certificates of insurance coverage to be kept in force continuously during this agreement, and during all work performed pursuant to all short form agreements, in a form acceptable to the City. Said certificates shall name the City as an additional named insured with respect to all coverages except professional liability insurance. The minimum insurance requirements shall be as follows:

(1) Comprehensive General Liability. \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, \$2,000,000 general aggregate;

(2) Automobile Liability. \$300,000 combined single limit per accident for bodily injury and property damage;

(3) Workers' Compensation. Workers' compensation limits as required by the Workers' Compensation Act of Washington;

(4) Consultant's Errors and Omissions Liability. \$1,000,000 per occurrence and as an annual aggregate.

b. **Endorsement.** Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in

limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

c. **Acceptability of Insurers.** Insurance to be provided by Consultant shall be with a Bests rating of no less than A:VII, or if not rated by Bests, with minimum surpluses the equivalent of Bests' VII rating.

d. **Verification of Coverage.** In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current.

3.8 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or any other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

3.9 UNFAIR EMPLOYMENT PRACTICES. During the performance of this agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

3.10 AFFIRMATIVE ACTION. Affirmative action shall be implemented by the Consultant to ensure that applicants for employment and all employees are treated without regard to race, creed, color, sex, age, marital status, national origin or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. The Consultant agrees to take affirmative action to ensure that all of its employees and agent adhere to this provision.

3.11 LEGAL RELATIONS. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this agreement. This contract shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.

3.12 INDEPENDENT CONTRACTOR. The Consultant's relation to the City shall at all times be as an independent contractor.

3.13 **CONFLICTS OF INTEREST.** While this is a non-exclusive agreement the Consultant agrees to and will notify the City of any potential conflicts of interest in Consultant's client base and will seek and obtain written permission from the City prior to providing services to third parties where a conflict of interest is apparent. If a conflict is irreconcilable, the City reserves the right to terminate this agreement.

3.14 **CITY CONFIDENCES.** The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

ARTICLE IV. OBLIGATIONS OF THE CITY

4.1 **PAYMENTS.** The Consultant shall be paid by the City for completed work for services rendered under this agreement and as detailed in the Exhibit A scope of services as provided herein after. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work. Payment shall be on a time and expense basis, provided however, in no event shall total payment under this agreement exceed fifty thousand dollars (\$50,000) as set forth in **Exhibit B**. In the event the City elects to expand the scope of services from that set forth in **Exhibit A**, the City shall pay Consultant an additional amount based on a time and expense basis, based upon Consultant's current schedule of hourly rates.

a. Invoices shall be submitted by the Consultant to the City for payment pursuant to the terms of the scope of services. The invoice will state the time expended, the hourly rate, a detailed description of the work performed, and the expenses incurred during the preceding month. Invoices must be submitted by the 20th day of the month to be paid by the 15th day of the next calendar month.

b. The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

4.2 **CITY APPROVAL.** Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this contract must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the scope of work and City requirements.

ARTICLE V. GENERAL

5.1 **NOTICES.** Notices to the City shall be sent to the following address:

CITY OF STANWOOD
C/O: City Administrator
10220 - 270th Street NW
Stanwood, WA 98292

Notices to the Consultant shall be sent to the following address:

Brad Freeman, PLS
Triad Associates
12112 115th Avenue NE
Kirkland, WA 98034

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

5.2 **TERMINATION.** The right is reserved by the City to terminate this agreement in whole or in part at any time upon ten (10) days' written notice to the Consultant.


If this agreement is terminated in its entirety by the City for its convenience, a final payment shall be made to the Consultant which, when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination applied to the total work required for the project.

5.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed upon alternative dispute resolution of arbitration or mediation.

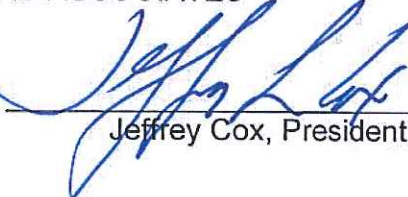
5.4 **NONWAIVER.** Waiver by the City of any provision of this agreement or any time limitation provided for in this agreement shall not constitute a waiver of any other provision.

DATED this 24th day of January, 2013.

CITY OF STANWOOD

By: 
Dianne White, Mayor

TRIAD ASSOCIATES

By: 
Jeffrey Cox, President

ATTEST:

By: 
Greg Thramer, City Clerk

APPROVED AS TO FORM:

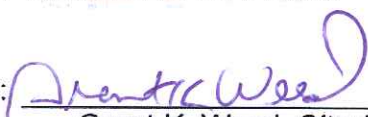
By: 
Grant K. Weed, City Attorney

EXHIBIT A - SCOPE OF WORK:

CITY OF STANWOOD ON-TOPOGRAPHICAL SURVEY CAPITAL PROJECTS

Specific tasks associated with capital project surveys will be negotiated separately and upon City approval will become a part of this contract as if set forth in full.

- Pioneer Highway Waterline Replacement
- Pressure Zone 2 Improvements - Olympic View Place, Cedarhome Drive, 82nd Drive NW, 83rd Drive NW, and 272nd Street NW Waterline replacement project.
- SR532 Flood Protection Berm and Shared Use Path

CITY OF STANWOOD ON-CALL SERVICES

TASK A - PEER REVIEW OF SURVEY MAPS AND OTHER DOCUMENTS

This task includes:

- Review of Boundary Line Adjustments, Plats and Short Plats submitted to the City of Stanwood to verify compliance with Revised Code of Washington Chapter 58.09, Washington Administrative Code Chapter 332-130-050 and applicable City of Stanwood statutes.
- Review of legal descriptions submitted to the City of Stanwood for street dedication or other purposes to verify compliance with Washington Administrative Code Chapter 332-130-040 and applicable City of Stanwood statutes.
- Deliverable will be a written report in letter format describing our findings together with markups of maps or other documents as necessary.

TASK B - MISCELLANEOUS SURVEY SERVICES

This task includes:

- Prepare written legal description and exhibits for street dedications and other purposes as requested by the City of Stanwood.
- Miscellaneous survey services as requested by the City of Stanwood.

General Assumptions for Tasks A and B

- The work will be done based on Task Orders issued by the City of Stanwood.
- The work will be billed on a Time and Expense basis using the attached Hourly Rate

Schedule (see Exhibit "B").

TASK C - PEER REVIEW OF PLANS AND DOCUMENTS PREPARED BY THE CITY ENGINEER

This task includes:

- Peer review of engineering plans, technical reports and other documents prepared by the City Engineer to determine general compliance with industry standards and City of Stanwood Public Works Standards.
- Deliverable will be a written report in letter format outlining the findings of the peer review.

General Assumptions for Task C

- The work will be performed based on Task Orders issued by the City of Stanwood.
- The work will be billed on a Time and Expense basis using the attached Hourly Rate Schedule (see Exhibit "B").

TASK C - PEER REVIEW OF PLANS AND DOCUMENTS PREPARED BY THE CITY ENGINEER (continue)

General Assumptions for Task C (continue)

- The Peer Review, under this task, of the engineering plans, technical reports and other documents prepared by the City Engineer is to confirm plans are in general compliance with industry standards and City of Stanwood Public Works Standards. The Peer Review will not evaluate the comprehensive design approach to the project since this is performed during the City's development of Comprehensive Plans.

CITY OF STANWOOD CAPITAL PROJECT TOPOGRAPHICAL SURVEY SERVICES

Pioneer Highway Water Main Replacement

Task Budget

	Hours	Hourly Rate	Fee
Principal Surveyor	12	\$170	\$2,040.00
Survey Technician	28	\$115	\$3,220.00
2-man field crew	20	\$160	\$3,200.00
2-man field crew w/GPS	4	\$180	\$ 720.00
Total			\$9,180.00

125 and 242 to 245 Pressure Zone Conversion Project

Task Budget

	Hours	Hourly Rate	Fee
Principal Surveyor	16	\$170	\$2,720.00
Survey Technician	40	\$115	\$4,600.00
2-man field crew	25	\$160	\$4,000.00
2-man field crew w/GPS	5	\$180	\$ 900.00
Total			\$12,220.00

SR 532 Flood Protection Berm and Shared Use Path

Task Budget

	Hours	Hourly Rate	Fee
Principal Surveyor	6	\$170	\$1,020.00
Survey Technician	28	\$115	\$3,220.00
2-man field crew	24	\$160	\$3,840.00
2-man field crew w/GPS	2	\$180	\$ 360.00
Total			\$8,440.00

CITY OF STANWOOD ON-CALL SERVICES
EXHIBIT B - STANDARD HOURLY RATE SCHEDULE
EFFECTIVE MAY 1, 2012

Survey

Principal Surveyor	\$170 /hr.
Senior Project Surveyor	\$160 /hr.
Project Surveyor	\$120 - \$132 /hr.
Survey Technician	\$110 - \$115 /hr.
Survey Field Supervisor	\$108 /hr.
Survey Party Chief	\$105 /hr.
Survey Party Chief with GPS	\$130 /hr.
Leica Laser Scanner	\$150 /hr.

Survey Field Crew

1-Person	\$130 /hr.
2-Person	\$160 /hr.
2-Person with GPS	\$180 /hr.
3-Person	\$200 /hr.
3-Person with GPS	\$220 /hr.

Administrative Assistant	\$64 - \$75 /hr.
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Engineering

Principal Engineer	\$175/hr.
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Triad's hourly rates include normal equipment and supplies such as FAX, office and CADD computers, conventional survey instruments, survey vehicles, and survey vehicle mileage, unless otherwise specified by contract.

Standard hourly rates are subject to adjustment on May 1, 2013.