



REQUEST FOR BIDS

FOR

211 N MAIN AVENUE DEMOLITION

RIDGEFIELD PROJECT NO. C2017-042
May 2017

**CALL FOR BIDS
CITY OF RIDGEFIELD
211 N MAIN AVENUE DEMOLITION**

Bids will be received by the undersigned via email at bids@ci.ridgefield.wa.us until the **bid closing at 4:00 p.m. local time on Thursday, June 1, 2017**, for furnishing the necessary labor, materials, equipment, tools, and guarantees thereof to complete the 211 N Main Avenue Demolition project. No bids will be received after the closing time.

Project Description:

This project will include removal and disposal of two mobile homes, removal of all trash, pipes, paths, and other materials associated with the foundations and any building materials associated with the structures. The Bid will also include site cleanup and hydroseeding the site when finished with building removal. The lump sum price will include all necessary work required to complete the above tasks, including but not limited to, mobilization, traffic control, proper disposal of all materials, and erosion control and fine grading.

The City will be responsible for obtaining all permits for the contractor to do the work, including, but not limited to a building demolition permit and grading permit if required. Asbestos testing and removal for the buildings, will be completed by the City and no special methods of disposal are required.

The work required for physical completion shall be completed no later than July 3, 2017. All bidding and construction is to be performed in compliance with the Request for Bids, Specifications, and Contract for this project and any addenda issued thereto which are on file at the office of the City Clerk, City Hall, City of Ridgefield, Washington.

The City of Ridgefield expressly reserves the right to reject any or all bids and to waive minor irregularities or informalities and to further make award of the Project to the lowest responsive, responsible bidder as it best serves the interest of the City.

**Signed: Bryan Kast
 Public Works Director**

BID PROPOSAL FORM

TO: City of Ridgefield
P.O. Box 608
230 Pioneer Street
Ridgefield, Washington 98642

FROM: _____
Bidder Company Name

Address

City State Zip

Phone

The undersigned, as bidder, declares that we have examined all of the contract documents and that we will contract with the City of Ridgefield to do everything necessary to complete the work as outlined for the 211 N Main Avenue Demolition Project.

We acknowledge that addenda numbers _____ to _____ have been delivered to us and have been examined as part of the contract documents. We agree that the Contract Bond shall form a part of this proposal.

If our BID is accepted, we agree to sign the contract form and to furnish the contract bond and the required evidences of insurance within ten (10) calendar days after receiving written notice of the award of contract.

We further agree, if our BID is accepted and a contract for performance of work is entered into with the City of Ridgefield, to so plan the work and to prosecute it with such diligence that all of the work shall be completed within the time period stated in the contract. We understand that the City of Ridgefield reserves the right to reject any or all bids and to determine which proposal is, in the judgment of the City of Ridgefield, the lowest responsible, responsive bid, and which proposal, if any, should be accepted in the best interests of the City of Ridgefield and that the City of Ridgefield also reserves the right to waive any informalities in any proposal or bid. We understand that the City of Ridgefield will determine at the time of Award of the Contract which additives, if any, will be included in the contract.

We further state that we have not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

The selected contractor shall be responsible for the health and safety of their employees and for compliance with all applicable federal, state and local laws. The City will enter into an Agreement (attached) with the selected contractor who will also be required to sign and provide the attached Contract Bond. The contractor shall ensure that personnel working under the contract are paid in accordance with the Washington State Department of Labor and Industries prevailing wage ruling for Clark County in effect at the time of award. The bidder shall provide documentation demonstrating liability insurance of not less than \$1,000,000 and name the City, its staff and agents as additional insured.

The quantities and items of work represent the City's best approximation of the work required to meet the objectives of the project. Additive Bid Items are supplemental units of work or group of bid items, identified separately in the proposal, which may, at the discretion of the City, be awarded in addition to the Base Bid. The City of Ridgefield reserves the right to reject any or all proposals if found to be higher than the estimated cost and to waive any formality or technicality in any proposal in the interest of the City. The contractor shall be paid for work performed at the line item unit rates. The City is not responsible for restocking charges or for unused materials because of variations in quantities.

We propose to perform the work at the prices listed in the following bid schedule(s):

Bid Schedule

Notes:

- (1) Bid amounts shall be shown in figures.
- (2) The City reserves the right to reject all bids.
- (3) A bid must be received on all items. If any unit prices or extensions are left blank the bid will be considered non-responsive and rejected. In the event of a discrepancy between the unit price and extended price the unit price multiplied by the quantity will govern.

BASE BID - 211 N Main Avenue Demolition

Item No.	Quantity	Unit	Description	Unit Price	Total
1	1	LS	Traffic Control		
2	1	LS	Removal of Structures		
3	1	LS	Site Clean-up and seeding		

SUBTOTAL \$ _____

8.4% WASHINGTON STATE SALES TAX
\$ _____

TOTAL BASE BID
\$ _____

ALTERNATE BID FOR EARLY COMPLETION– 211 N Main Avenue Demolition

Item No.	Quantity	Unit	Description	Unit Price	Total
1	1	LS	Additional Cost to Substantially Complete Project by June 16, 2017		

8.4% WASHINGTON STATE SALES TAX
\$ _____

TOTAL ALTERNATE BID
\$ _____

Award of the Alternate bid is at the sole discretion of the City of Ridgefield. Basis of award will be the base bid plus alternate if the alternate is selected, or the base bid alone if the alternate is not selected.

PROPOSAL SIGNATURE PAGE

The bidder is hereby advised that by signature of this proposal he/she is deemed to have acknowledged all requirements and signed all certificates contained herein. **Proposals submitted without a signature below will be rejected.**

The undersigned hereby agrees to pay labor not less than the prevailing rates of wages in effect at the time of award. The undersigned hereby certifies that a policy, or endorsement to an existing policy, naming the City as an Insured will be obtained and remain in effect during the term of the contract.

The bidder shall insert the number and date of each Addendum received; leave blank if none received. Bidder is responsible for verifying the actual number of addenda issued prior to submitting a Proposal.

No. _____ Date: _____ No. _____ Date: _____ No. _____ Date: _____

(Company Name)

(Street, P.O. Box - Principal place of business)

(Signature)

(City)

(State)

(Zip)

(Print Name)

(_____) _____

(Area Code)

(Telephone Number)

(Contact e-mail Address)

(_____) _____

(Area Code)

(Fax Number)

Dept. of Licensing Contractor's License No.: _____

Dept. of Labor and Industries Workman's Compensation Account No.: _____

Unified Business Identifier Number: _____

Excise Tax Registration Number: _____

Employment Security Account Number: _____



A. CITY OF RIDGEFIELD, WA
SMALL PUBLIC WORKS CONSTRUCTION CONTRACT

THIS AGREEMENT made and entered into and made effective this _____ day of _____, 2017, by and between the City of Ridgefield, Washington, hereinafter called the City, and, _____, hereinafter called the Contractor.

WITNESSETH:

That in consideration of the terms and conditions contained herein and attached and made a part of this Agreement, the parties hereto covenant and agree as follows:

I. Description of work.

1.1 The Contractor shall do all work and furnish all tools, materials, supplies, equipment labor, and all other items incidental thereto necessary for the construction of Project Name: _____ Project No. _____ in accordance with the terms of this Agreement, and as described in the Contract Documents, which are by this reference incorporated herein and made a part hereof, hereinafter the "Work".

1.2 Compliance with laws. All duties of the contractor shall be performed in accordance with all applicable federal and state laws and city ordinances as now existing or hereafter adopted or amended.

1.3 Inspection. The City reserves the right to inspect, review, and approve of the Work to assure it has been completed as specified prior to payment.

1.4 Performance standard. All duties performed by the Contractor or its designees shall be performed in a good workmanlike manner, consistent with accepted practices for other similar services, performed to the City's satisfaction, within the time period prescribe by this Agreement and pursuant to the direction of the City Manager or designee.

II. Term.

The term of this Agreement shall commence on the effective date of this Agreement and shall continue until the completion of the Work, which shall be no later than _____ days after the commencement date stated in the Notice to Proceed. This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Contractor.

III. Termination.

The City may terminate or suspend this Agreement at any time, with or without cause, upon ten (10) days prior written notice to the Contractor. In the event of such termination or suspension, the Contractor shall be entitled to payment for all services performed and reimbursable expenses incurred to the date of the termination. The City may terminate the Agreement immediately if the Contractor's insurance coverage is cancelled for any reason or if the Contractor is unable to perform the Work.

IV. Compensation.

4.1 In consideration of the Contractor performing the Work in accordance with this Agreement, the City agrees to pay the Contractor in the manner and in the times provided in the Contract Documents and in accordance with city ordinances and laws of the State of Washington. The amount to be paid shall not exceed \$_____, and may be variable upon the amount of work done and materials furnished pursuant to the unit prices bid and as set forth in the Contract Documents.

4.2 Method of payment. Unless otherwise provided, payment by the City for the Work shall only be made in a single lump sum payable not later than _____ days after the City's final written acceptance of the Work. Each payment shall withhold the legal retainage as provided by law. Notwithstanding the above, the City reserves the right to refuse payment, in whole or in part, until such time as the City is satisfied all claims and requirements of the Washington Department of Revenue, Washington Employment Security Department, and Washington Department of Labor and Industries, as well as claims of suppliers of labor, materials, or equipment.

4.3 Contractor responsible for taxes. The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment under this Agreement.

V. Retainage.

If contract amount exceeds \$35,000, pursuant to RCW 60.28 there will be retained from monies earned by the Contractor on progress estimates a sum not to exceed 5 percent of the monies earned by the Contractor. Such retainage shall be used as a trust fund for the protection and payment (1) to the State with respect to taxes imposed pursuant to RCW Title 82, which may be due from such Contractor, and (2) the claims of any other person or entity arising under the Contractor or RCW 60.28. Release of retainage will be made within the statutory period following the last date for filing of claims pursuant to RCW Chapter 60.28.

VI. Prevailing wages.

Pursuant to RCW 39.12, prior to payment by the City, the Contractor must submit, on behalf of itself and each and every subcontractor, a "Statement of Intent to Pay Prevailing Wages," which must be approved by the Department of Labor and Industries prior to its submission. Following the final acceptance of the Work, the Contractor must submit, on behalf of itself and every subcontractor, and "Affidavit of Wages Paid."

VII. Discrimination Prohibited.

In the performance of all Work under this Agreement, the Contractor, or its employees, agents, subcontractors or representatives, shall not discriminate against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status or the presence of any disability, including sensory, mental, or physical handicaps, based upon a bona fide occupational qualification in relationship to hiring and employment. The Contractor shall comply with the Washington Law Against Discrimination (Chapter 49.60 RCW) and with any other applicable federal or state law or local ordinance regarding non-discrimination, including but not limited to 23 USC 3; 29 USC 12 (V); 42 USC 21(V); 42 USC 76; 42 USC 126; 49 CFR 21; and 23 CFR 200. Any material violation of this provision shall be grounds for immediate termination of this Agreement by the City and, in the case of the Contractor's breach, may result in ineligibility for further City agreements.

In the event project funding so requires, the Contractor agrees to be bound by the assurances set forth in Exhibit "A" and to include and require in every sub-contract, the sub-contractor's agreement to the assurances of Exhibit A, unless exempt by the Regulations or directives issued pursuant thereto.

VIII. Insurance.

8.1 Insurance Term. The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

8.2 No Limitation. Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

8.3 Minimum Scope of Insurance. Contractors required insurance shall be of the types and coverage as stated below:

- 8.3.1 Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
- 8.3.2 Commercial General Liability insurance shall be as least at broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as additional an insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01

and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

8.3.3 Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

8.4 Minimum Amounts of Insurance. Contractor shall maintain the following insurance limits:

8.4.1 Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

8.4.2 Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.

8.5 City Full Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

8.6 Other Insurance Provision. The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

8.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

8.8 Verification of Coverage. Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

8.9 Subcontractors' Insurance. The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO Additional Insured endorsement CG 20 38 04 13.

8.10 Notice of Cancellation. The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

8.11 Failure to Maintain Insurance. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

IX. Indemnity.

9.1 The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

9.2 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 Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

9.3 This indemnity agreement shall include any claim made against the Owner or their officials, agents or employees, by an employee of the Contractor or of a subcontractor even if such employer is thus or otherwise immune from liability pursuant to workers' compensation statutes.

9.4 The Contractor assumes all responsibility for protection against loss of all tools, equipment, materials and supplies used for the completion of this Contract.

9.5 The parties have mutually negotiated the provisions contained herein and it is the intent of the parties that the Contractor provides the broadest scope of indemnity permitted by RCW. 4.24.115.

X. Contractor's Bond.

The Contractor agrees that, unless otherwise provided in this agreement, before it undertakes performance of this Contract, it will file with the City a Performance Bond and Payment Bond or combined Performance and Security Bond in the full amount of the Contract price, executed by itself as principal and one or more surety companies authorized to do business in the State of Washington as surety. The bond(s) shall be subject to the approval of

the City Attorney and shall comply with the laws of the State of Washington, and especially with the provisions of Revised Code of Washington, Chapter 39.08. and 39.04.

XI. Liquidated damages.

11.1 Time is of the essence of the Contract. Delays inconvenience the public and cost taxpayers undue sums of money, adding time needed for administration, inspection, and supervision. It is impractical for the City to calculate the actual cost of delays. Accordingly, the Contractor agrees as follows:

- 11.1.1 To pay \$1,500 in liquidated damages for its failure to complete the work on time, for each working day beyond the number of working days established for completion, and
- 11.1.2 To authorize the City to deduct these liquidated damages from any money due or coming due to the Contractor.

11.2 When the work is completed to the extent that the City has full and unrestricted use and benefit of the facilities, both from an operational and safety standpoint, the City may determine the work is complete. Liquidated damages will not be assessed for any days for which an extension of time is granted. No deduction of payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete this entire contract.

XII. Change orders.

Changes to the scope of the Work to be performed, or the amount of the compensation, or the time for completion of the work may be accomplished only by a written change order document, signed by the Contractor and the City.

XIII. Contract documents.

This agreement and the Contract documents contain all the agreements of the Parties with respect to the project. The term Contract Documents shall include, and in the event of a conflict control in the following order of precedence

1. This Agreement
2. The bid proposal
3. Change orders, force accounts, supplemental agreements, addenda, or approved revisions to the plans or drawings
4. Special provisions
5. Contract plans and/or drawings
6. General provisions
7. Amendments to the standard specifications
8. Standard specifications

9. City right of way, or other required city permit.

XIV. Certification regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion—Primary and Lower Tier Covered Transactions.

14.1 The Contractor, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency.
- b. Have not within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this section; and
- d. Have not within a three-year period preceding the signing of this contract had one or more public transactions (federal, state, or local) terminated for cause of default.

14.2 Where the Contractor is unable to certify to any of the statements in this contract, the Contractor shall attach an explanation to this contract.

14.3 The Contractor agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the BOARD.

14.4 The Contractor further agrees by signing this contract that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- a. The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

14.5 The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as

used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the BOARD for assistance in obtaining a copy of these regulations.

XV. General terms and conditions.

15.1 Modification. No provisions of this Agreement may be amended or modified except by written agreement signed by the Parties.

15.2 Full Force and Effect. Any provision of this Agreement which is declared invalid or illegal, shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

15.3 Payment of suppliers The Contractor agrees to pay in a timely manner all suppliers of labor, materials, and equipment utilized in operations under the Contract.

15.4 Subcontractors. A public works contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW [39.04.350](#)(1) and possesses an electrical contractor license, if required by chapter [19.28](#) RCW, or an elevator contractor license, if required by chapter [70.87](#) RCW.

15.5 Assignment. Neither the Contractor nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other party.

15.6 Successors in Interest. Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.

15.7 Attorney Fees. In the event either party brings a lawsuit to enforce the terms of this Agreement, or arising from a breach of this Agreement, the prevailing party shall be entitled to its costs and attorneys' fees for bringing or defending against the action.

15.8 No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

15.9 Venue. This Agreement Governing shall be governed by and interpreted in accordance with the laws of the State of Washington. The venue for any dispute related to this Agreement or for any action to enforce any term of this Agreement shall be Clark County, Washington.

15.10 Authority. Each individual executing this Agreement on behalf of the City and the Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Contractor or the City.

15.11 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

15.12 Performance. Time is of the essence of this Agreement in each and all of its provisions in which performance is a factor.

15.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law or in equity.

15.14 Counterparts. This Agreement may be executed in any number of counter-parts, which counterparts shall collectively constitute the entire Agreement.

15.15 Conflicting Provisions. In the event of a conflict between the terms of any Contract Documents, the City Manager or designee shall issue a interpretation to resolve the conflict, which shall be final and binding.

COUNTERSIGNED:

This _____ day of _____, 20 ____

IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed the day and year first hereinabove written.

Executed by the Contractor _____, 20____.

Signature

Printed

Title

Executed by the City of Ridgefield _____, 20____.

Signature

Printed

Title

EXHIBIT “A”
TITLE VI ASSURANCES

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agree as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the “REGULATIONS”), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT’s obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination of the grounds of race, color, sex, or national origin.
4. **Information and Report:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by AGENCY, STATE or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, STATE or FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT’s non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE or the FHWA may determine to be appropriate, including, but not limited to:

- Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of the AGREEMENT, in whole or in part.
6. Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the AGENCY, STATE, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY and the STATE enter into such litigation to protect the interests of the AGENCY and the STATE and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.