



**City of Ridgefield, WA
Request for Qualifications**

P20002 Hillhurst Road Overlay Design

<p><u>Request for Qualifications Information:</u></p> <p>Contact Person: Julia Denton Email Address: Julia.Denton@ci.ridgefield.wa.us Contact Phone: 360-857-5048</p> <p>Questions Due: March 2, 2020 at 4 p.m. Submittals Due: March 11, 2020 at 4 p.m.</p>	<p><u>Submit Submittals to:</u></p> <p>Attn: Julia Denton, Procurement Specialist 230 Pioneer Street (City Hall) PO Box 608 Ridgefield, WA 98642</p>
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City of Ridgefield, WA Professional Services Contract

Section 1: Instructions and Contract Information

A. Request for Qualifications

The City of Ridgefield is seeking qualifications from highly qualified firms to provide all pre-construction design services associated with the Hillhurst Road Overlay Project. Activities to be completed under this project shall include all design, survey and permitting work necessary to develop a complete construction bid package.

Request for Qualification packets may be examined at:

<https://ridgefieldwa.us/government/city-departments/finance-department/current-projects/> or a copy for viewing may be requested by contacting Julia Denton, Bids@ci.ridgefield.wa.us or 360-857-3557

Questions or Requests for Clarification must be sent to Julia Denton, Procurement Specialist, via email to bids@ci.ridgefield.wa.us and be received by 4:00 p.m. on **March 2, 2020**. Incomplete or late inquiries may not be considered.

Sealed Submittals must be received by the City no later than 4:00 p.m. (Pacific Time) **Wednesday, March 11, 2020**. Submissions received after the specified time will not be accepted. The City of Ridgefield is not responsible for delays in delivery. Official delivery time shall be documented by City affixed time/date stamp.

Submittals must be delivered via mail or hand delivery to: Attn: Julia Denton, Procurement Specialist, City of Ridgefield, 230 Pioneer Street City Hall, PO Box 608, Ridgefield, WA 98642. Submittals shall be in a sealed envelope, and clearly marked "**P20002 Hillhurst Overlay Design.**" Submittals received by FAX or EMAIL will not be accepted.

The City of Ridgefield is committed to providing equal opportunities to State of Washington certified Minority, Disadvantaged and Women's Business Enterprises in contracting activities.

The City of Ridgefield in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises, as defined in 49 CFR part 26, will be afforded full opportunity to submit qualification statements in response to this invitation and will not be discriminated against on the grounds of race, color, national origin or sex in consideration for an award.

The City reserves the right to cancel this request or reject any and all Submittals or to waive any minor formalities of this call if the best interest of the City would be served.



Julia Denton, Procurement Specialist

B. Introduction/Background

The City of Ridgefield, incorporated in 1909, is a rapidly growing community located in northern Clark County, Washington approximately 10 miles north of Vancouver, Washington. Over the next 20 years, the City of Ridgefield expects to grow to a population of over 20,000 persons with an employment base of over 13,000 jobs.

The City of Ridgefield (City) has received Transportation Improvement Board (TIB) funds to design and improve Hillhurst Road. All work must be completed in accordance with local, state and federal laws. This will be a fast track project with the intent of finishing construction before August 2020.

C. Scope of Work

The City of Ridgefield is seeking qualifications from highly qualified firms to provide all pre-construction design services associated with the Hillhurst Road Overlay Project. Activities to be completed under this project shall include all design, survey and permitting work necessary to develop a complete construction bid package.

Hillhurst Road is classified as a minor arterial within the City of Ridgefield between S. 15th Circle and Sevier Road and a principal arterial between Sevier Road and S. 22nd Circle. Hillhurst Road is in poor condition and does not meet the City's current standards. The existing roadway generally consists of two travel lanes. Portions of the existing roadway have been developed on one side or the other resulting in intermittent widening, designated pedestrian facilities and stormwater improvements. Other sections of the roadway that have not seen adjacent development consist of the two travel lanes and narrow shoulders with no pedestrian facilities.

Those areas in which development has occurred have left seams and gaps between the existing and new asphalt. Many locations of the existing asphalt in the project area show longitudinal and alligator cracking due to fatigue failure and likely spots of inadequate base or subgrade.

The purpose of this project is to complete all pre-construction activities (e.g. preliminary design, permitting, PS&E preparation, and construction services) associated with replacement of the existing asphalt with a grind and inlay.

D. Approximate Timeline

Solicitation Issued:	February 19, 2020
Questions Due:	March 2, 2020 at 4 p.m. PST
Addendum Due:	March 4, 2020
Submittals Due:	March 11, 2020 at 4 p.m. PST
Interviews (if needed):	March 19, 2020
Estimated Notice to Proceed:	April 6, 2020

E. Information

Questions, substitution, clarification or contract changes requests must be sent to Julia Denton, Procurement Specialist, via email to bids@ci.ridgefield.wa.us and be received by 4:00 p.m. on **March 2, 2020**. Incomplete or late inquiries may not be considered.

F. Addendum

It is the sole responsibility of the proposer to learn of Addenda, if any. Such information may be obtained at: <https://ridgefieldwa.us/government/city-departments/finance-department/current-projects/>. The City of Ridgefield accepts no responsibility or liability and will provide no accommodation to proposers who fail to check for addendums and submit inadequate or incorrect responses. The final Addenda is expected to be released no later than **March 4, 2020**.

G. General Information Form

The general information form, on the next page, is designed to serve as the cover sheet. Do not attach cover letters, title pages, or blank sheets ahead of this form, nor substitute letterhead paper for it. If additional space is needed, plain paper may be attached behind this form. This form must be signed by a person authorized to submit proposals and enter into contract negotiations on behalf of your firm. **Failure to submit this form may result in your Submittal being deemed non-responsive and rejected.**

Section 2: Proposal Submittal And Evaluation Information

General Information Form

P20002 Hillhurst Road Overlay Design

This form must be signed by a person authorized to make proposals and enter into contract negotiations on behalf of your firm. To be considered for this project, the submittals must be completed in accordance with this solicitation and this cover sheet must be attached.

Authorized Official (Signature)

Date

Print Name of Authorized Official

Title of Authorized Official

Company Name

Contact Person

Address

City, State, Zip

Phone Number

Fax Number

E-Mail Address

Federal Tax ID #

A. Submittal Requirements & Procedure

Submittal Requirements: Submittals should be concise and only include information requested.

- Proposers to provide: One (1) signed original copy of the Submittal and three (3) paper copies along with 1 electronic copy on CD or USB thumb drive (MS Word, MS Excel compatible or pdf files)
- Minimum font size: 12 point
- Any charts, graphs, table of organizations, etc., must be of readable size
- Maximum number of pages shall be 15 single-sided 8.5" x 11" pages.

Submittal Procedure: Submittals are to be submitted in a sealed envelope and labeled:

P20002 Hillhurst Road Overlay Design

Submittals must be delivered via mail or hand delivery to:

Attn: Julia Denton, Procurement Specialist
City of Ridgefield
230 Pioneer Street City Hall
PO Box 608
Ridgefield, WA 98642

- All submittals must be delivered and received by City Hall by the time/date listed.
- Submittals submitted by Email or Fax will not be accepted.
- City PO Box mail is usually collected once each business day at 10 a.m. Mail received after that time will not be collected until the next business day, and therefore possibly not received by the City by the due date and time.
- Proposers shall allow enough time for delivery to occur. Official City time/date stamp shall be the sole means used to determine time/date of receipt/acceptance of submittals.
- Submittals received after the listed date and time will not be accepted. The City of Ridgefield is not responsible for delays in delivery.
- No hourly rates, costs or fees, whatsoever, may be submitted with your submittal.

B. Evaluation Process

The City will determine the most qualified firm based on the evaluation criteria listed below using predetermined weights and the responsiveness of the Submittal. A subsequent round of interviews may be used to evaluate finalists.

The City reserves the right to conduct interviews of a short list of proposers. If the City decides to conduct interviews, the interview sessions will be evaluated in a manner similar to the evaluation criteria. Topics covered in the interview session shall include the topics listed under the "Evaluation Criteria" section plus any additional, relevant topics which may arise during both the formal presentation and the question and answer portions of the

interview. If interviews are conducted and if your firm is selected for an interview, you will be contacted by the City for next steps.

C. Evaluation Criteria

These instructions were prepared to aid in Submittal development. They also provide for a structured format so reviewers can systematically evaluate several submittals. Each copy of the Submittal package must include all the sections in the order indicated. The City may use its past experience with proposing consultants as a part of this evaluation.

Attachments should be clearly referenced and identified to facilitate the review process. Each Submittal shall include:

1. Firm Profile & Ability to Meet Schedule

Proposing consultants shall include a brief profile of their firm(s). This profile should provide an overview of the firm's areas of expertise (specifically transportation), its history, primary market area, the current availability of firm personnel to complete the proposed project, and the number of employees at any Washington State or Portland, Oregon locations. The selected consultant must be able to demonstrate that the firm has the personnel available to complete the first phase of the Work and have a bid ready package prepared no later than June 30, 2020. If the proposing firm uses a sub-consultant, each participating firm should provide a firm profile. This section is intended to familiarize the City with the proposing consultant firms.

2. Professional Qualifications and Expertise of Key Personnel

The project manager must be highly skilled at managing transportation projects to ensure that they are delivered within scope, according to schedule, and within budget. The submittal should also discuss how the project manager would consistently ensure high quality of work and their proven performance and experience in managing and delivering transportation projects in an expedited process. Discussion of other key personnel (task leaders) including expertise and experience in design of asphalt oriented transportation projects, and construction engineering and observation on projects..

3. Recent Experience with Similar Projects

This section of the submittal should contain brief descriptions of the consultant's recent and successful past performance on agreements with governmental entities and private industry for the type of work described above. Consultant shall submit at least three (3) projects. For each project, the consultant should provide a brief description of what services were provided and the outcome of the projects. In addition, the project manager, start and end dates (actual and planned), and the total dollar value (actual and planned) of each project should be provided.

4. Project Approach

The submittal must include a brief section on the approach to be taken with this project to complete a bid ready document prior to June 30, 2020. This section should discuss the concept and type of plans, specifications and estimate package necessary for this nature of project.

5. References

Submittals must provide at least three (3) references for similar projects. References should also be recent (within the last 2 years) or current clients. References for sub-consultants (if applicable) should be relevant to the proposed role of these services. Provide the name, title, organization, and telephone number for each reference listed.

D. Evaluation Scoring

The City's choice of Consultant will be made by evaluating the Proposer's Submittal . Each Submittal received in response to this Solicitation will be evaluated and scored as follows:

1. Firm Profile & Ability to Meet Schedule (**25** points maximum)
2. Qualifications and Experience (**25** points maximum)
3. Recent Experience with Similar Projects (**15** points maximum)
4. Project Approach (**25** points maximum)
5. References (**10** points maximum)

E. Award of Contract

Once selected, the City will negotiate a scope of services and a fee that is fair and reasonable as noted above. The City will attempt to reach a final agreement with the highest scoring responding proposer. However, the City may, at its sole discretion, terminate negotiations and reject the Submittal if it appears agreement cannot be reached. The City may then attempt to reach a final agreement with the next highest scoring proposer and may continue on, in the same manner, with remaining the proposers until an agreement is reached.

Award of the contract shall be made with reasonable promptness by giving verbal and written notice to the proposer whose Submittal best conforms to the request, receives the highest score through the evaluation process, and which will be the most advantageous to the City. It is the intent of the City to award a contract on a fair and competitive basis. All performance and technical standards stated in the solicitation must be met as a condition of Submittal acceptance.

The successful proposer will be required to enter into a written agreement with the City in which the proposer will undertake certain obligations. These obligations include, but are not limited to; the City of Ridgefield, WA Professional Service Contract which are meant to be non-negotiable, but may be modified at the City's sole discretion. This solicitation and the successful Proposer's response shall be incorporated in and become a part of the final contract.

In the event that a proposer has concerns with said Contract, they must address those concerns within question timeframe. Requests to modify the Contract after the

solicitation's closing date and time will not be considered. The City will consider all concerns but is not obligated to change any part of said terms & conditions.

For contract exceeding \$100,000, upon successful completion of contract negotiations, a recommendation will be forwarded to City Council for approval. Until approved by City Council, no contract can be executed and no award is final.

F. Solicitation General Terms and Conditions

Reimbursement

The City will not reimburse proposers for any costs involved in the preparation and submission of responses to this Solicitation or in the preparation for and attendance at subsequent interviews. Furthermore, this Solicitation does not obligate the City to accept or contract for any expressed or implied services. The City reserves the right to request any Consultant to clarify their Submittal or to supply any additional material deemed necessary to assist in the evaluation of the Consultant.

City Business License

Pursuant to Ridgefield Municipal Code Chapter 5.04 Consultants will be required to get a City of Ridgefield business license endorsement when performing work within the City of Ridgefield, unless allowable exemptions apply, for additional information, please visit: <https://ridgefieldwa.us/businesses/business-license/>.

eVerify

Consultant shall register and enter into a Memorandum of Understanding (MOU) with the Department of Homeland Security E-Verify program within sixty (60) days after execution of this Contract. Consultant shall ensure all Consultant employees and any sub-consultant(s) assigned to perform Work are eligible to work in the United States. Consultant shall provide verification of compliance upon City request. Failure by Consultant to comply with this subsection shall be considered a material breach.

Cooperative Purchasing

The Washington State Interlocal Cooperation Act, Ch. 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By responding to this RFP, Firms/Consultants agree that other public agencies may purchase goods and services under this solicitation or contract at their own cost and without the City of Ridgefield incurring any financial or legal liability for such purchases. The City of Ridgefield agrees to allow other public agencies to purchase goods and services under this solicitation or contract, provided that the City of Ridgefield is not held financially or legally liable for purchases and that any public agency purchasing under such solicitation or contract file a copy of this invitation and such contract in accordance with RCW 39.34.040.

Public Records and Proprietary Material

Proposers should be aware that any records they submit to the City or that are used by the City even if the proposers possess the records may be public records under the Washington Public Records Act (RCW 42.56). The City must promptly disclose public records upon

request unless a statute exempts them from disclosure. Proposers should also be aware that if even a portion of a record is exempt from disclosure, generally, the rest of the record must be disclosed. Exemptions, including those for trade secrets and "valuable formula," are narrow and specific.

Proposers should clearly mark any record they believe is exempt from disclosure.

Upon receipt of a request for public disclosure, the City will notify the solicitation proposer of any public disclosure request for the proposer's Submittal. If the proposer believes its records are exempt from disclosure, it is the proposer's sole responsibility to pursue a lawsuit under RCW 42.56.540 to enjoin disclosure. It is the proposer's discretionary decision whether to file such a lawsuit. However, if the proposer does not timely obtain and serve an injunction, the City will disclose the records, in accordance with applicable law.



City of Ridgefield, WA Professional Services Contract

THIS CONTRACT made and entered into and made effective this _____ day of _____, 2020, by and between the City of Ridgefield, WA, a municipal corporation, hereinafter referred to as "the City", and _____, hereinafter referred to as the "Consultant", and hereinafter referred to as "Parties."

WITNESSETH:

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

I) Description of Work.

- 1.1 Work.** The Consultant agrees to provide Hillhurst Road Overlay Design per Solicitation No. P20002 and Consultant's response to said Solicitation in accordance with the terms of this Contract, 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 Consultant 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 Performance Standard.** All duties performed by the Consultant 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 Contract and pursuant to the direction of the City Manager or designee.

II) Term.

- 2.1 Contract Term.** The term of this Contract shall commence on the Effective Date of this Contract and shall be fully complete no later than _____. This Contract may be extended for four (4) additional one (1) year terms. Any extension of time shall be mutually agreed and executed by the Parties via written Amendment pursuant to Section IX Amendments of this Contract.

III) Termination.

3.1 Termination for Convenience. The City, at its sole discretion, may terminate this Contract for convenience at any time for any reason deemed appropriate. Termination is effective immediately upon notice of termination given by the City. In the event this Contract is terminated prior to the completion of Work, Consultant will only be paid for the Work completed at the time of termination of the Contract.

3.2 Termination for Cause. In the event the Consultant is, or has been, in violation of the terms of this Contract or incorporated documents, the City reserves the right, upon written notice to the Consultant, to cancel, terminate, or suspend this contract in whole or in part for default. Termination shall be effected by serving a notice of termination on the Consultant setting forth the manner in which the Consultant is in default. The Consultant will be paid only the contract price for services performed in accordance with the manner of performance set forth in the Contract.

If it is later determined by the City that the Consultant had an excusable reason for not performing, such as a strike, fire, or flood, or events which are not the fault of or are beyond the control of the Consultant, the City after setting up a new delivery or performance schedule, may allow the Consultant to continue work or treat the termination as a termination for convenience.

3.3 Opportunity to Cure. The City at its sole discretion may in lieu of a termination allow the Consultant to cure the defect(s), by providing a "Notice to Cure" to Consultant setting forth the remedies sought by City and the deadline to accomplish the remedies. If the Consultant fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time stated time, the City shall have the right to terminate the Contract without any further obligation to the Consultant. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against the Consultant and it's sureties for said breach or default, including but not limited to termination of this Contract for convenience.

3.4 Dispute Resolution. In the event of a dispute between the Parties which cannot be resolved by the contract managers, the Consultant and the City shall review such dispute and may attempt to resolve the dispute. Any controversy or claim arising out of or relating to this Contract or the alleged breach of this Contract that cannot be resolved by the Parties within 30 days of receipt of written notice may be submitted to mediation. If the dispute is not resolved through mediation, it shall be submitted to binding arbitration in accordance with the rules and procedures set forth in Chapter 7.04A RCW. The Parties agree to pay their own attorneys' fees and expenses.

IV) Compensation.

4.1 City's Obligation. In consideration of the promises and agreements of the Consultant as set forth herein, and in consideration of the faithful performance and furnishing of the Work and materials required by this Contract to the satisfaction of the City, the City agrees to pay to the Consultant in the manner and at the times provided hereinafter and in the Contract Documents, and in accordance with the ordinances of the City of Ridgefield and the laws of the State of Washington, the following sum as indicated, which includes Washington State Sales Taxes as applicable: \$ _____.

- i) The amount finally to be paid is, however, variable upon the work actually performed and final payment will be made upon the basis of the amount of work performed and the materials furnished, and at the lump sum or unit prices fixed in the Consultant's Submittal and as modified by any and all approved Amendments.
- ii) The Consultant 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 Contract.

4.2 Payment to the Consultant. Progress payments to the Consultant shall be made within 30 days of the City's receipt of Consultant's invoice and the Consultant's and any subconsultant's full compliance with all contractual requirements. The City reserves the right to require Consultant to correct any submitted or paid erroneous invoices according to the rates set forth herein. City and Consultant agree that any amount paid in error by City does not constitute a change in the agreed upon amount; Consultant agrees to issue a refund of any overages paid in error by the City.

V) Payment of Labor.

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

5.2 Travel Expenses. Travel expenses are limited to airfare, or mileage at the current IRS rate, and lodging at the U.S. General Services Administration rates. Consultant is solely responsible for its staff's travel time, including travel to and from the project site. The City will reimburse all pre-approved miscellaneous expenses at-cost upon submission of a detailed receipt.

5.3 Progress Submissions. The Consultant may be required to submit progress vouchers to the City once per month during the progress of the Work for payment for project completed to date. Vouchers submitted shall include the Contract Number designated by the City.

- 5.4 Final Payment.** Final payment of any balance due the Consultant of the total Contract price earned will be made promptly upon the City's ascertainment and verification after the completion of the Work.
- 5.5 Consultant Records.** The Consultant's records and accounts pertaining to this agreement are to be kept available for inspection by representatives of the City and of the State of Washington for a period of three (3) years after final payment. Copies shall be made available upon request.

VI) Discrimination Prohibited.

- 6.1 Discrimination Statement.** In the performance of all Work under this Contract, the Consultant, or its employees, agents, subconsultants 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 Consultant 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 Contract by the City and, in the case of the Consultant's breach, may result in ineligibility for further City agreements.
- i) In the event project funding so requires, the Consultant agrees to be bound by the assurances set forth in Exhibit "A" and to include and require in every sub-contract, the sub-Consultant's agreement to the assurances of Exhibit A, unless exempt by the Regulations or directives issued pursuant thereto.

VII) Insurance.

- 7.1 Insurance Term.** The from commencement of the Consultant's work through the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.
- 7.2 No Limitation.** Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- 7.3 Minimum Scope of Insurance.** Consultant shall obtain insurance of types and amounts described below:
- i) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

ii) Professional Liability insurance appropriate to the Consultant's profession.

7.4 Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

COVERAGE	LIMITS OF LIABILITY
I. Commercial General Liability:	
Policy shall include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability	
Each Occurrence	\$1,000,000
General Aggregate Per Occurrence	\$2,000,000
Products & Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Blanket Contractual Liability	\$1,000,000
II. Commercial Automobile Liability	
Policy shall include Bodily Injury and Property Damage, for any owned, Hired, and/or Non-owned vehicles used in the operation, installation and maintenance of facilities under this agreement.	
Combined Single Limit	\$500,000
III. Workers' Compensation	
Per Occurrence- coverage as required by the Industrial Insurance laws of the State of Washington.	Statutory
IV. Professional Liability	
Each Claim	\$1,000,000
Aggregate	\$2,000,000

7.5 Other Insurance Provision. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

7.6 Consultant's Insurance for Other Losses. The Consultant shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Consultant's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Consultant, or the Consultant's agents, suppliers, Consultants or subconsultants as well as to any temporary structures, scaffolding and protective fences.

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

7.8 Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

7.9 Notice of Cancellation. The Consultant shall provide the City with written notice of any policy cancellation within two (2) business days of their receipt of such notice.

7.10 Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days notice to the Consultant 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 Consultant from the City.

VIII) Indemnity.

8.1 Indemnity Statement. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all liability including but not limited to demands, claims, causes of action, suits or judgments, claims of copyright or patent infringement, including costs, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by Consultant pursuant to this Contract, except for injuries and damages caused by the sole negligence of the City. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the Consultant, the City retains the right to participate in said suit.

Should a court of competent jurisdiction determine that this Contract 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 officers, officials, employees, and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant'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 Contract.

IX) Amendments.

9.1 Amendments. 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 Amendment document, signed by the Consultant and the City.

9.2 Cost Increases. In consideration of market conditions, the City may allow an annual adjustment to compensation paid for the actual cost of services. Consultant

shall submit the request for consideration, together with supporting documentation, at least 30 days before the anniversary of the Effective Date of this Agreement. The City will review the request and, at its sole discretion, make a decision. If accepted, the adjustment shall become effective on the anniversary date of the Agreement and will be firm for the remainder of the contracted year. All adjustments will be authorized by written contract Amendment.

X) Contract Documents.

10.1 Contract Documents and Order of Precedence. The complete Contract includes these parts and any inconsistency in the parts of the Contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Amendments to the Contract,
2. This Contract,
3. Proposer's Response to Request for Proposals/Qualifications,
4. The Request for Proposals/Qualifications,
5. Special Provisions,
6. Contract Plans,
7. General Provisions,
8. City right of way, or other required City permit.

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

XI) Consultant Responsibilities.

11.1 Engineering Certification Requirements. To the extent required by the State of Washington, the Consultant shall be duly licensed to perform the services required pursuant to Chapter 18.43 RCW.

11.2 Certification Regarding Debarment, Suspension, Or Ineligibility And Voluntary Exclusion—Primary And Lower Tier Covered Transactions.

- i) The Consultant, defined as the primary participant and its principals, certifies by signing this Contract that to the best of its knowledge and belief that they:
- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency.
 - (2) Have not within a three (3) 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;

- (3) 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 (2) of this section; and
- (4) Have not within a three (3) year period preceding the signing of this contract had one or more public transactions (federal, state, or local) terminated for cause of default.
- (5) Where the Consultant is unable to certify to any of the statements in this contract, the Consultant shall attach an explanation to this Contract.
- (6) The Consultant 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 City.
- (7) The Consultant 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:
 - (a) The lower tier Consultant 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 Consultant is unable to certify to any of the statements in this contract, such Consultant shall attach an explanation to this Contract.
 - (c) 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 City for assistance in obtaining a copy of these regulations.

XII) Intellectual Property.

12.1 Warranty of Noninfringement. Consultant represents and warrants that the Consultant is either the author of all deliverables to be provided under this

Agreement or has obtained and holds all rights necessary to carry out this Agreement. Consultant further represents and warrants that the Services to be provided under this Agreement do not and will not infringe any copyright, patent, trademark, trade secret or other intellectual property right of any third party.

- 12.2 Rights in Data.** Unless otherwise provided, data which originates from this Agreement shall be a "work for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the City. Data shall include, but not be limited to reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, films, tapes, and sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.
- 12.3 Confidentiality.** The Consultant agrees that all materials containing confidential information received pursuant to this Agreement shall not be disclosed without the City's express written consent. Consultant agrees to provide the City with immediate written notification of any person seeking disclosure of any confidential information obtained for the City.

XIII) General Terms and Conditions.

- 13.1 Modification.** No provisions of this Contract may be amended or modified except by written Contract signed by the Parties.
- 13.2 Waiver and Remedies.** Any provision of this Contract 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. City's failure to enforce the terms or conditions herein or to exercise any right or privilege, or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type. Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
- 13.3 Assignment.** Neither the Consultant 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.
- 13.4 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.
- 13.5 Attorney Fees.** In the event either party brings a lawsuit to enforce the terms of this Contract, or arising from a breach of this Contract, the prevailing party shall be entitled to its costs and attorneys' fees for bringing or defending against the action.
- 13.6 Jurisdiction/Venue.** This Contract 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 Contract or for any action to enforce any term of this Contract shall be Clark County, Washington.

- 13.7 Authority.** Each individual executing this Contract certifies that the person signing is legally authorized to enter into this binding Contract on behalf of the City and the Consultant represents and warrants that such individuals are duly authorized to execute and deliver this Contract on behalf of the Consultant or the City.
- 13.8 Ownership of Records and Documents.** Any and all work product prepared by the Consultant in the course of performing this Contract shall immediately become the property of the City. In consideration of the compensation provided for by this Contract, the Consultant hereby further assigns all copyright interests in such work product to the City. A copy may be retained by the Consultant. Previously owned intellectual property of Consultant or any third party, and any know-how, methodologies or processes used by Consultant to provide the services or project deliverables under this Contract shall remain property of the original owner.
- 13.9 Use of City's Name.** Consultant may not use any of City's name, trademark, service marks, or logo in connection with the services contemplated by this Contract or otherwise without the prior written permission of City, which permission may be withheld for any or no reason and may be subject to certain conditions.
- 13.10 Public Disclosure Compliance.** The Parties acknowledge that the City is an "agency" within the meaning of the Washington Public Records Act, Chapter 42.56 RCW, and that materials submitted by the Consultant to the City become public record. Such records may be subject to public disclosure, in whole or part and may be required to be released by the City in the event of a request for disclosure. In the event the City receives a public record request for any data or deliverable that is provided to the City and that is licensed from the Consultant, the City shall notify the Consultant of such request and withhold disclosure of such information for not less than five (5) business days, to permit the Consultant to seek judicial protection of such information, provided that the Consultant shall be responsible for attorney fees and costs in such action and shall save and hold harmless the City from any costs, attorney fees or penalty assessment under Chapter 42.56 RCW for withholding or delaying public disclosure of such information.
- 13.11 Cooperative Purchasing.** The Washington State Inter-local Cooperation Act, Chapter 39.34 RCW, authorizes public agencies to cooperatively purchase goods and services if all parties agree. By having executed this Contract, the Consultant agrees that other public agencies may purchase goods and services under this solicitation or contract at their own cost and without the City incurring any financial or legal liability for such purchases. The City agrees to allow other public agencies to purchase goods and services under this solicitation or contract, provided that the City is not held financially or legally liable for purchases and that

any public agency purchasing under such solicitation or contract file a copy of this invitation and such contract in accordance with RCW 39.34.040.

13.12 Independent Consultant. The Consultant and the City agree that the Consultant is an independent Consultant with respect to the services provided pursuant to this agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto.

Neither Consultant nor any employee of Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Consultant, or any employee of Consultant.

13.13 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below:

Mr. Kirk Johnson
Finance Director
PO Box 608
Ridgefield, WA 98642
PH:(360) 857-5008
(360) 887-0861
Email: kirk.johnson@ci.ridgefield.wa.us

Notices to Consultant shall be sent to the following address:

Consultant name
Company
Mailing Address
City, State, Zip
Phone:
Email:

13.14 Entirety of Contract. This Contract incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Contract. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Contract.

13.15 Ratification. Acts taken pursuant to this Contract but prior to its Effective Date are hereby ratified and confirmed.

By signing below, Consultant accepts the terms and conditions of this Contract and specifically acknowledges and agrees that the provisions contained herein have been mutually negotiated by the Parties.

DATED this _____ day of _____, 20_____.

Executed by the Consultant on

_____, 20__.

Signature

Printed

Title

Executed by the City of Ridgefield on

_____, 20__.

Signature

Printed

Title

Attest:

City Clerk

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.