



## Request for Proposals

City of Ritzville SS4A Comprehensive Safety Action Plan

Requested by the City of Ritzville

### Call for Proposals

The City of Ritzville (City) is seeking a qualified individual or firm to submit proposals for developing a strategic Comprehensive Safety Action Plan (CSAP) that will meet or exceed U. S. DOT Federal Highway Administration (FHWA) and Washington State Department of Transportations' (WSDOT) Highway Safety Improvement Program requirements.

The City of Ritzville is the county seat of Adams County and is located at the intersection of Interstate 90 and U.S. 395, the major east-west and north-south routes of eastern Washington, which have both seen around 20% growth in daily traffic over the past few years. Ritzville is about an hour drive from Spokane, which is the largest city between Seattle and Minneapolis along the I-90 corridor. The City is a main hub for travelers to the western and southern parts of the state and as such, has also seen its local traffic increase alongside the aforementioned regional increase seen on Washington State Department of Transportation (WSDOT) highways. Upcoming development plans are projected to increase this local load even more.

A small rural city of about 1,790 people, Ritzville is known for its agriculturally based community and is dominated by dry land production of small cereal grains, primarily wheat and barley. However, other products such as canola, grass seed, livestock and alfalfa hay are grown. This, coupled with the fact that City arterials serve as an oversize load bypass route for the interstate's commercial traffic, means the City has an increased threat for multimodal road users interfacing on City streets. The tide on the slow growth of Ritzville's population over the past decade has begun to turn, and the City is looking to be ahead of the coming changes, rather than behind.

**Proposal Due Date: Wednesday, December 11, 2024 received by 3:00pm** (late submissions are not considered).

**Proposal Submission Method and Address:** For consideration, submit an electronic copy of the RFP along with information requested under **Proposal Submittal Requirements**. Failure to provide the submittal in the appropriate manner will result in disqualification. Hard-copy or fax submittals are not permitted and will not be accepted. One electronic copy, including attachments, shall be transmitted to Julie Flyckt at [julie.flyckt@ritzville-wa.us](mailto:julie.flyckt@ritzville-wa.us) (no greater than 20 MB). Questions can be directed to Julie Flyckt at (509) 659-1930.

Receipt time of submittal will be considered the timestamp of the incoming email created automatically by the City's email server. **Email Subject shall be: RITZVILLE SS4A COMPREHENSIVE SAFETY ACTION PLAN - RFP**

### Project Schedule:

Professional Services Contract Execution for Approval by January 7, 2025

Project Start Date

Draft Plan

Final Plan for Adoption by November 18, 2025

SS4A Final Report Date

by January 3, 2025

January 8, 2025

by July 10, 2025

by October 16, 2025

by March 31, 2026

## Project Description

The goal of this project is to create a CSAP that aligns with both the Federal Highway Administration Administration's (FHWA) requirements as well as Washington State Department of Transportation's (WSDOT) Highway Safety Improvement Program requirements. This document will inform the City of Ritzville on how to best prevent roadway fatalities and serious injuries by developing a well-defined strategy and list of priority projects within their jurisdiction for all road users from pedestrians, bicyclists, motorists, and commercial traffic alike. Particular care will be taken to review and address our Underserved Communities through these priority projects.

## Scope of Work/Deliverables

The CSAP developed through this planning process will outline the City of Ritzville's strategy to prevent fatalities and serious injuries within the city right-of-way. The CSAP should include all the components laid out by the U.S. Department of Transportation in order to successfully apply for implementation funds. These components can be referenced in Table 1 in the SS4A 2023 NOFO: <https://www.transportation.gov/sites/dot.gov/files/2023-03/SS4A-NOFO-FY23.pdf>

1. Project Management
  - a. The consultant will manage the study and coordinate plan documentation, public engagement events, data collection, and stakeholder coordination.
  - b. The consultant will host regular meetings with the City of Ritzville staff assigned to this planning process and will submit monthly progress reports including performed work, upcoming events and milestones, and status of the schedule.
  - c. The consultant will ensure timely adherence to grant obligation requirements, project documentation, and project progress documentation requirements as required by FHWA.
2. Public Institutional Commitment and Oversight
  - a. The consultant will help the City of Ritzville write a statement of commitment to an eventual goal of zero roadway fatalities and serious injuries with a target date to reach zero or setting one or more targets to achieve significant declines in roadway safety and serious injuries by a specific date. This statement will be a public commitment made by the City of Ritzville Mayor and City Council.
3. Systemic Transportation Network Crash and Roadway Risks/Needs Analysis
  - a. Complete data driven, system-wide analysis of existing conditions and historical trends for collisions within the City limits, including analysis of the location where there are crashes, the severity, as well as contributing factors and collision types.
  - b. Other analysis includes high-risk road features, specific safety needs of diverse road users, connections to public and environmental health, analysis of the built environment, demographic, and structural issues, etc. The analysis should include all roadways within the City, without regard for ownership.
4. Public Engagement and Equity Impact Assessment
  - a. At a minimum, this engagement schedule should include the following:
    - i. Identification of, and engagement activities for, stakeholder groups in the private sector and community groups, underserved communities, and inter/intra-governmental collaboration and coordination including but not limited to BNSF, WSDOT, Lind-Ritzville Schools
5. Policy/Plan/Procedure/Standards Assessment
  - a. The consultant will collect, review, and assess existing programs, policies, plans, guidelines, and/or standards to identify opportunities to improve how existing processes prioritize safety, including discussion of implementation through adoption of revised or new policies, guidelines, and/or standards.
6. Action Plan Development/Draft/Final Draft
  - a. The consultant will identify a comprehensive set of projects and strategies to address the safety problems in the CSAP, time ranges when low-cost projects and strategies will be deployed, explanation of project prioritization criteria, and identification of potential funding sources to implement the activities. Low-cost, high-impact strategies that can improve safety and equity will be included.
  - b. Plan development using inclusive and representative processes. Underserved communities are identified through data and other analyses in collaboration with appropriate partners. Analysis includes

both population characteristics and initial equity impact assessments of the proposed projects and strategies.

- c. Method to measure progress over time after an Action Plan is developed or updated, including outcome data.
- d. The consultant will prepare an administrative draft of the CSAP for review prior to finalization of the document.
- e. The final draft should be visually appealing, easy to read and available in digital and print formats.
- f. The consultant shall develop a brief executive summary or fact sheet in PDF format which relays all pertinent information in an easy-to-follow format. The summary should be concise and highly graphic, highlighting major assumptions, strategies, and recommendations.
- g. Following completion of the CSAP, the consultant will share the planning document in PDF format, all data and study products collected during the planning process.

**Proposal Submittal Requirements:**

Proposal must contain the following components. Additional information that may prove beneficial to the City during the rating and awarding process is welcomed.

1. General Information Form (**EXHIBIT A**) is designed to serve as the cover sheet.
2. Contact name, address, telephone number, fax number and e-mail address.
3. Detailed description of skills, experience and ability to meet project requirements including identification and designation of roles/responsibilities of key project staff.
4. Client references including project type, dates, contact info and description.
5. Description of approach to project including all the requirements listed.
6. Project timeline and deliverables.
7. A break-down of proposal budget by task and including any bonding amount required.
8. Statement of acceptance, ability and willingness to enter into a Professional Services Contract.
9. Statement addressing minority, women, veterans' Native American business ownership.

**Budget:**

Proposers are required to provide a proposed scope-of-work that does not exceed \$104,720 in total costs and details: tasks/activities; timeline; deliverables/performance measures; and costs per tasks/activities with administrative costs clearly detailed.

**Draft Scoring Criteria:**

Proposals will be scored based on the following criteria. The scoring criteria are subject to change without notice at the discretion of the City.

The following proposal components will be rated from 1-10 with 1 being the lowest:

- Demonstrated project experience and skills
- Capabilities of key project staff
- Experience working with government organizations
- Experience working in project vicinity
- Experience with Transportation Safety Programs and Strategic Safety Planning
- Proposed approach
- Proposed scope-of-work
- Proposed timelines
- Proposed deliverables
- Project budget
- Inclusion of required Statements
- Client references
- Minority, Women, Veteran, or Native American owned entity

Following the selection of a Consultant, the City will then negotiate a specific scope of services, fees, and schedule with the selected Consultant. If an agreement cannot be reached with the first selected Consultant, the City will terminate negotiations with said Consultant and open negotiations with the second ranked Consultant. The compensation discussed with one Consultant is confidential and will not be discussed or disclosed with others.

### **Terms and Conditions**

1. It is the responsibility of all respondents to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
2. Any proposal may be withdrawn up until the date and time set above for opening of the proposals. Any proposal not so timely withdrawn shall constitute an irrevocable offer to sell to the City the services described in the attached specifications for a period of ninety (90) days, or until one or more of the proposals have been approved by the City administration, whichever occurs first.
3. The City reserves the right to reject any and all proposals, to waive minor irregularities in any proposal and to change the selection process or timeline.
4. The City reserves the right to request clarification of information submitted, and to request additional information from any proposer.
5. The contract resulting from acceptance of a proposal by the City shall be in a form supplied by the City, as provided in **EXHIBIT B**, and shall reflect the specifications in this RFP. The City reserves the right to reject any proposed agreement that does not conform to the specification contained in this RFP, and which is not approved by the City Attorney's Office.
6. The City shall not be responsible for any costs incurred by an interested party in preparing, submitting or presenting its response to the RFP.
7. All proposals and products submitted become the property of the City. It is understood and agreed that the prospective Proposer claims no proprietary rights to the ideas and written materials contained in or attached to the proposal submitted.
8. All submitted documents are public and subject to disclosure.
9. The City is not responsible for any equipment or software failure that may cause delay or non-delivery of an electronic submittal. The official submission time of an electronic proposal will be as marked by Outlook in the City staff's email inbox.
10. At the appointed proposal closing date and time, the City's Contract Specialist will download the applicable contents of the reserved email mailbox and/or open all sealed envelopes and make them public accordingly.
11. The City is not responsible for electronic proposals containing viruses that cannot be eradicated, or that are corrupted as a result.

*The City of Ritzville, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252,42 U.S.C. 2000d to 2000d-4), and accompanying Regulations, hereby notifies all bidders that will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.*

*The City of Ritzville is an equal opportunity and affirmative action employer. Small, minority, veteran, and women-owned businesses are encouraged to submit proposals. The City of Ritzville in accordance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA), commits to nondiscrimination on the basis of disability, in all of its programs and activities.*

**EXHIBIT A**

Safe Streets and Roads for All (SS4A) Comprehensive Safety Action Plan

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

*Failure to submit this form may result in your response being deemed non-responsive.*

\_\_\_\_\_  
Authorized Official (Signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name of Authorized Official

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Address City, State, Zip

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
UBI Number

\_\_\_\_\_  
Lic. #

## EXHIBIT B

### Safe Streets for All (SS4A) Comprehensive Safety Action Plan

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, between the **City of Ritzville**, and \_\_\_\_\_ for themselves, heirs, executors, administrators, successors, and assigns, hereinafter called the "Consultant".

**WHEREAS**, the City requires the professional services of the Consultant;

**NOW, THEREFORE**, in consideration of mutual benefits accruing, it is agreed by and between the parties hereto as follows:

1. **Scope of Work.** Under this Agreement, the Consultant shall assist the City in drafting a Comprehensive Safety Action Plan (CSAP) and developing a strategy to prevent fatalities and serious injuries within the city right-of-way, as detailed in the City of Ritzville document entitled "REQUEST FOR PROPOSALS - Safe Streets and Roads for All (SS4A) Comprehensive Safety Action Plan" issued November 20, 2024, and which is hereby incorporated by reference and made a part hereof.
2. **Price and Payment Terms.** The services provided under this Agreement shall be (TBD). Payments shall be made in accordance with the Consultant's Fee Schedule as submitted with their proposal, which is incorporated by reference and made a part hereof.
3. **Period of Performance.** The period of performance under this Agreement is from inception through DATE.
4. **Subcontracts.** The Consultant shall not subcontract the Scope of Work ("Work") unless detailed in this Agreement or the City approves in writing. If the City requests, the Consultant shall provide proof that the subcontractor has the experience, ability, and equipment the Work requires. "subcontractor" means an individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Consultant. Each request to subcontract shall include the following information (i) a description of the supplies or services to be subcontracted, (ii) identification of the type of subcontract to be used (iii) identification of the proposed subcontractor, (iv) proposed subcontract price, (v) identification of the percentage of work to be performed by subcontract. Approval of subcontract shall not:
  - a. Relieve the Consultant of any responsibility to carry out the Contract,
  - b. Relieve the Consultant of any obligations or liability under the Contract,
  - c. Create any contract between the City and the subcontractor, or
  - d. Convey to the subcontractor any rights against the City.

Consultant remains fully responsible for obligations, services, and functions performed by its subcontractor to the same extent as if such obligations, services, and functions were performed by Consultant's employees, and for purposes of the Agreement such work will be deemed work performed by Consultant. The Consultant shall give immediate written notice, reference Clause Notices, of any action or suit filed and prompt notice of any claim made against the Consultant by any subcontractor or vendor that, in the opinion of the Consultant, may result in litigation related in any way to this Agreement, with respect to which the Consultant may be entitled to reimbursement from the City.

If dissatisfied with any part of the subcontracted Work, the City may request in writing that the subcontractor be removed. The Consultant shall comply with this request at once and shall not employ the subcontractor for any further Work under the Contract.

5. **Taxes.** The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Consultant must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Consultant's gross or net income, or personal property to which the City does not hold title. The City is exempt from Federal Excise Tax. Where applicable the City shall furnish a Federal Excise Tax Exemption certificate.
6. **Invoicing.** All invoices shall include a cover page that states: Company Name, Invoice Date, Due Date (30 days), Invoice Number, Invoice Period, Project Manager Name, **Agreement Number**, Agreement Price, amount requested per invoice and cumulative invoiced amount. Invoices shall include actual hours worked by Period, by Labor Category. The Consultant must invoice MONTHLY for quantities delivered during the invoice period, and no more frequently than

monthly, and allow 30 calendar days from receipt of the invoice for payment. Invoices may be sent by US mail to City of Ritzville, Julie Flyckt, 216 E. Main St., Ritzville, WA 99169, or by email to [julie.flyckt@ritzville-wa.us](mailto:julie.flyckt@ritzville-wa.us). The City shall notify the Consultant within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Consultant shall then resubmit a new invoice less the disputed amount and payment shall be made within 30 calendar days. Any disputed amounts may be submitted under the Disputes clause contained herein.

7. **Withholding Payment.** In the event the City determines that the Consultant has failed to perform any obligation under this Contract within the times set forth in this Contract, then the City may withhold from amounts otherwise due and payable to Consultant the amount determined by the City as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Consultant to terminate or damages, provided that the City promptly gives notice in writing to the Consultant of the nature of the default or failure to perform, and in no case more than 8 days after it determines to withhold amounts otherwise due. A determination of the City Attorney set forth in such notice to the Consultant of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Consultant acts within the times and in strict accord with the provisions of the Disputes clause of this Contract. The City may act in accordance with any determination of the City Attorney which has become conclusive under this clause, without prejudice to any other remedy under the Contract, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Consultant, (3) to set off any amount so paid or incurred from amounts due to become due the Consultant. In the event the Consultant obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Consultant by reason of good faith withholding by the City under this clause.

8. **Final Payment: Waiver of Claim.** The Consultant's acceptance of final payment shall constitute a waiver of claims, except those previously and properly made and identified by the Consultant as unsettled at the time request for final payment is made.

9. **Ownership and Use of Documents.** All finished and unfinished documents and material prepared by the Consultant with funds paid by the City pursuant to the terms of this Agreement shall become the property of the City and shall be forwarded to the City upon its request. Documents and materials shall include but not be limited to plans, specifications, reports, electronic and non-electronic data, and other design documents prepared by the Consultant. Pursuant to RCW 42.56.70, all information and documents produced under this Agreement may be subject to public disclosure.

10. **Assistance Regarding Patent and Copyright Infringement.** In the event of any claim or suit against City on account of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any material furnished or work or services performed hereunder, Consultant shall defend City against any such suit or claim and hold City harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.

11. **Indemnification / Hold Harmless.** Consultant 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 resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. However, 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 officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, 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 Agreement.

**12. General and Professional Liability Insurance.**

**A. Insurance Term:** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**B. 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.

**C. Minimum Scope of Insurance:** Consultant shall obtain insurance of the types and coverages described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrences form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. **The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy** with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
3. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

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

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence and \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

**E. Other Insurance Provision:** The Consultant'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 Consultant's insurance and shall not contribute with it.

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

**G. Verification of Coverage:** The Consultant 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 Consultant **within 10 days of contract execution and before scheduling of the work.** Upon request by the City, the Consultant shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractor coverage. Failure of the City to demand such verification of coverage with these insurance requirements or failure of the City to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Consultant's obligation to maintain such insurance.

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the City to be equivalent.
2. Copies of all endorsements naming the City as additional insured, showing the policy number. The Consultant may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.
3. Any other amendatory endorsements to show the coverage required herein.
4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.

**H. Notice of Cancellation:** The Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

**I. 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 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 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.

**J. City Full Availability of Consultant Limits:** If the Consultant 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 Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

13. **Registered or Licensed.** The City is prohibited from executing an Agreement with a Consultant who is not registered or licensed as required by the applicable laws of the state for their profession. In addition, Ritzville City Code requires that every business located within the city limits of Ritzville register the business with the state and include a City of Ritzville Endorsement. Businesses from outside city limits with a gross annual income of \$2,000 within Ritzville are also required to obtain a city endorsement. Business licenses and city endorsements can be obtained through the State of Washington Department of Revenue (DOR) Business Licensing Service (BLS) at [bls.dor.wa.gov](https://bls.dor.wa.gov).

14. **Inspection.** The Project Manager shall have power to reject instruments of services which fail to comply with the requirements of this Agreement, but in case of dispute the Consultant may appeal to the City Attorney, whose decision shall be final. The Consultant shall comply with any and all orders and instructions given by the representative of the particular Department administering the Agreement in accordance with the terms of the Agreement. Nothing herein contained shall be taken to relieve the Consultant of their obligations or responsibilities under the Agreement. However, the Consultant shall be responsible for their own methods and conduct during the period of performance.

15. **Standard of Care.** The Consultant represents that they have the necessary knowledge, skill, and experience to perform the Services required by this Agreement. Consultant, and any persons employed by Consultant, shall use their professional skill and efforts to perform the Work in a professional manner consistent with sound practices, in accordance with the usually and customary professional care required for services of the type described in the Scope of Work herein provided at the same time and in the same locale. The City's remedy for a failure to meet the above Standard of Care shall be the re-performance of the Service or an equitable adjustment in the monies paid for the services, at the City's discretion.

16. **Standard Title VI / Non-Discrimination Assurances.** During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest agrees to the clauses in "Appendix A" and "Appendix E" of the Standard Title VI Assurances (USDOT1050.2A), which are hereby incorporated by reference and made a part hereof.

17. **Consultant is an Independent Contractor.** The parties intend that an independent contractor relationship will be created by this Agreement. No agent, employee or representative of the Consultant shall be deemed to be an agent, employee or representative of the City for any purpose. Consultant shall be solely responsible for all acts of its agents, employees, representatives and subcontractor during the performance of this Agreement.

18. **Acceptance.** Consultant acknowledges and agrees that these contract terms are incorporated in, and are a part of, each purchase order or other agreement relating to the provision of goods and/or related services by Consultant. These contract terms supersede all conflicting or additional terms pre-printed on any purchase order, quote, invoice, Consultant's website, or otherwise set forth on any release, acknowledgement, confirmation, requisition, work order, shipping instruction, specification and similar document or communication.

19. **No Third Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby, except as otherwise expressly provided for in this Agreement.

**20. Right to Terminate Agreement.**

**A. Termination for Default:** If the Consultant defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the City may, by depositing written notice to the Consultant in the U.S. mail, postage prepaid, terminate the Agreement, and at the City's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Consultant shall not be entitled to receive any further payments under the Agreement until

all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. The Consultant shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. If a notice of termination for default has been issued and it is later determined for any reason that the Consultant was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

**B. Termination for Public Convenience:** The City may terminate the Agreement in whole or in part whenever the City determines, in its sole discretion that such termination is in the best interests of the City. Whenever the Agreement is terminated in accordance with this paragraph, the Consultant shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work through the date of termination. If the City exercises its option under this Paragraph, the City shall not be responsible for payment for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

21. **Changes/Additional Work.** The City may engage Consultant to perform services in addition to those listed in this Agreement, and Consultant will be entitled to additional compensation for authorized additional services or materials. The City shall not be liable for additional compensation until and unless any and all additional work and compensation is approved in advance in writing and signed by both parties to this Agreement. If conditions are encountered which are not anticipated in the Scope of Services, the City understands that a revision to the Scope of Services and fees may be required. Provided, however, that nothing in this paragraph shall be interpreted to obligate the Consultant to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this Agreement is approved in writing by both parties.

22. **Non-waiver.** 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.

23. **Non-assignable.** The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

24. **Covenant Against Contingent Fees.** The Consultant warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that they have not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

## **25. Disputes**

**A. General:** Differences between the Consultant and the City, arising under and by virtue of this Agreement shall be brought to the attention of the City at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The provisions of this Clause shall survive the expiration or termination of this Agreement.

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

**C. Detailed Claim:** The Consultant shall not be entitled to claim any such additional compensation, or extension of time,

unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the City, the Consultant has given the City a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

**D. Dispute Resolution:** In the event of a dispute between the City and the Consultant arising of this Agreement, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Consultant to have oversight over the administration of this Agreement. Said representatives shall meet within thirty (30) calendar days of receipt of detailed claim, and the parties shall make a good faith effort to achieve a resolution of the dispute. In the event the parties are unable to resolve the dispute under the procedure set forth above, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. Any expenses incidental to mediation shall be borne equally by the parties. If either party is dissatisfied with the outcome of the mediation, that party may then pursue any available judicial remedies.

26. **Force Majeure.** Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of Force Majeure. For the purposes of this Agreement, Force Majeure means an occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force Majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; freight embargoes; epidemics; pandemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall give the other party prompt written notice of the impediment and its effect on the ability to perform, with such notice to be provided no more than two (2) working days after the force majeure event or reasonable discovery of the event's impact on performance. Failure to provide such notice shall preclude recovery under this provision. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. Rights Reserved: The City reserves the right to cancel the Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Consultant shall have no recourse against the City.

27. **Compliance with Laws.** The Consultant in the performance of this Agreement shall comply with all applicable Federal, State or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, executive proclamations, all applicable Washington Dept. of Labor & Industries (L&I) and Occupational Safety & Health Administration (OSHA) safety standards, and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services. The Consultant specifically agrees to pay any applicable business and occupation (B&O) taxes, which may be due on account of this Agreement.

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

29. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Washington. Any action brought under the Agreement or relating to the Project shall be brought in the Superior Court of the State of Washington in Skagit County Washington.

30. **Survival of Agreement Termination.** The articles relating to Indemnification / Hold Harmless, Taxes, Ownership and Use of Documents, Assistance Regarding Patent and Copyright Infringement, The City's Right to Terminate Agreement, Governing Law, and Disputes, shall survive completion of the services, payment in full of the compensation and termination of this Agreement.

31. **Notices.** All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given and received (a) when personally delivered, or delivered by same-day courier; or (b) on the third business day after mailing by registered or certified mail, postage prepaid, return receipt requested; or (c) upon delivery when sent by prepaid overnight express delivery service (e.g., FedEx, UPS); or (d) when sent by email and upon the receipt by the sending party of written confirmation by the receiving party;

provided, however, that an automated email confirmation of delivery or read receipt shall not constitute such confirmation. Notices shall be sent to the following addresses:

CITY:  
City of Ritzville Julie Flyckt  
216 E. Main St.  
Ritzville, WA 99169  
julie.flyckt@ritzville-wa.us

CONSULTANT:

**The parties acknowledge** that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that they are signing with full and complete authority to bind the party on whose behalf of whom they are signing, to each and every term of this Agreement.

Executed by the Consultant \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Contractor

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City of Ritzville - Mayor

Date \_\_\_\_\_, 20\_\_\_\_

