



Return to:
 Jammi Guion
 City of Monroe
 806 West Main Street
 Monroe, WA 98272

Contact Information:
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CITY OF MONROE REQUEST FOR PROPOSAL HEARING EXAMINER SERVICES

SOLICITATION NUMBER	RELEASE DATE
RFP 2020-01	January 8, 2020
CLOSING DATE AND TIME	SUBMITTAL CONTACT
January 27, 2020; Noon	Jammi Guion
SUBMITTAL REQUIREMENT	SUBMITTAL EMAIL
Email in a PDF Format	jguion@monroewa.gov

PLEASE READ CAREFULLY!
 SCOPE OF SERVICE

PROPOSALS MUST MEET THE REQUIREMENTS OUTLINED IN THIS REQUEST FOR PROPOSAL TO BE CONSIDERED VALID. PROPOSALS WILL BE REJECTED IF NOT IN COMPLIANCE WITH THESE REQUIREMENTS.

INTRODUCTION:

The City of Monroe (“City”) is requesting proposals from individual attorneys or firms with substantial Hearing Examiner experience for the purpose of selecting a Hearing Examiner. The Hearing Examiner conducts quasi-judicial hearings on complex land use matters and regulatory compliance issues on behalf of the City and issues decisions and recommendations supported by findings and conclusions. Applicants must be experienced in the areas of land use law, real property law, and city planning and development.

CONTRACT DURATION:

The duration of the contract shall begin March 1, 2020, and end December 31, 2020. The contract will afford the opportunity for two – one year extensions upon mutual written agreement. Any

work already underway at the end of the contract date will be completed at the expiring contracts rate of compensation.

RFP PROCESS:

The following schedule provides key dates for the consultant selection process. The City reserves the right to change these dates and will notify Proposers in such a case.

ACTIVITY	DATE
Issue RFP	December 20, 2019
Deadline for Submittal of Proposals – Noon	January 27, 2020
Evaluations Selection Criteria Week of	January 27, 2020
Agreement Negotiations Week of	February 10, 2020
Agreement Finalized	February 17, 2020
Contract Authorization by City Council and Appointment by the City Mayor	March 10, 2020

SPECIAL PROVISIONS:

Consultants are encouraged to submit concise and clear responses to the RFP. The City reserves the right to include the proposal or any part of the selected proposal in the final contract.

GENERAL STATEMENT OF SCOPE OF SERVICES:

The individual or firm with whom the City contracts shall perform the duties of the Hearing Examiner as set forth in the Monroe Municipal Code (“MMC”). MMC Section 2.34 establishes the position of the Hearing Examiner, including powers and duties and procedures. Other pertinent Municipal Code sections include Chapter 22 (Unified development regulations) and other relevant MMC provisions.

The Hearing Examiner is responsible for conducting hearings for various land use applications, appeals of administrative determinations and interpretations, and other actions as designated in the Monroe Municipal Code to provide an efficient and effective process for integrating the public hearing and decision-making processes. The Hearing Examiner shall issue decisions and recommendations based on relevant ordinances, regulations, policies, statutes, and other authorities.

In addition to any other duty established by ordinance or resolution, the Hearing Examiner:

1. Follows procedures established by the city council for the scheduling and conduct of hearings and related matters.
2. Reviews properties that are the subject of hearings to become familiar with the terrain and relationships to other properties.
3. Receives and examines hearing related documents, and reviews case files, City codes and policies, environmental impact statements, plot plans, and topographical maps.
4. Evaluates testimony and evidence, prepares records, enters final written findings, and imposes conditions to conform projects to City ordinances and land use policies.

5. Maintains knowledge of current relevant state and City land use laws, policies, and related state and federal court decisions.

ADMINISTRATIVE SUPPORT:

The City will provide a properly equipped hearing room and on-site audio-visual assistance. The City shall provide for the Examiner's clerk and/or administrative staff and other support services. Scheduling of hearings is generally done in coordination with staff from the City's Department of Community Development. The City is responsible for recording the proceedings for the purpose of records retention.

Changes to this intended level of City support – either related to requiring more or less support – should be specifically addressed in any proposal submitted.

SELECTION PROCESS:

All proposals will be reviewed and screened by the Mayor. Proposals will be evaluated by considering the proposer's quality of experience, the strength of the approach described in the proposal, the responses to the questions provided below, and the cost to the City.

INSTRUCTIONS TO REPLY TO THIS REQUEST FOR PROPOSALS:

The City requires that the proposal be submitted in the format outlined in this section. The City reserves the right to require additional information or materials after the proposals are submitted. The proposal should be signed by one of the firm's legally authorized officers. Responses of excessive length or complexity are discouraged.

To reply to this RFP, please submit a proposal of no more than five (5) single-sided 8"x11" pieces of paper stating:

1. **Name and contact information.** Identify and provide a resume or similar description of the educational and professional background for the individual who desires to serve as the City's Hearing Examiner, including the name of that individual's law school and the year of graduation from law school.
2. **Hearing Examiner experience.** Describe relevant experience working for other jurisdictions as a Hearing Examiner, ALJ, or other quasi-judicial official. If the proposer is a law firm, provide this information for all attorneys anticipated to provide services to the City.
3. **Expertise.** Describe your experience with administering and interpreting: land use laws, codes, and municipal regulations in the State of Washington; environmental laws, such as SEPA and NEPA; and shoreline laws, such as the Shoreline Management Act, Shoreline Master Programs, and other similar local, state, and federal laws.
4. **Civil violation proceedings.** Describe your experience with code enforcement and other types of administrative appeals, including appeal proceedings outside of the land use context.
5. **Provide a statement describing your view of a municipal Hearing Examiner's roles and duties.** Describe your approach to conducting hearings and your perspective about what constitutes a "good result" for hearings over which the Hearing Examiner might

- preside.
6. **Fee proposal.** Provide a fee proposal that describes how you will be paid for the proposed services (e.g., hourly rate, monthly retainer, per-case fee).
 7. **Provide two Hearing Examiner reports.** Provide two Hearing Examiner writing samples (i.e., recommendations, decisions, or orders) for hearings conducted by the Proposer, or similar written reports or documents demonstrating similar experience. Writing samples are not included in the five-page limit.
 8. **Provide professional references.** Provide contact information for three professional references with personal knowledge of the Proposer's work and experiences that demonstrate qualifications and ability to serve as the City's Hearing Examiner.

Failure to address items 1 through 8 in detail may be sufficient reason to eliminate a proposal from consideration.

SUBMISSION OF PROPOSAL:

Email proposal to Jammi Guion, Supervisor Contract Documents at jguion@monroewa.gov. In the "Subject" line place the following: "PROPOSAL – Hearing Examiner Services RFP". Proposals shall be received ***no later than*** Noon on January 27, 2020. The City is not responsible for the time in which the "Proposal" arrives in the inbox of Jammi Guion therefore, the City recommends that you verify receipt of your "Proposal" by phoning 360-863-4514.

EVALUATION OF PROPOSALS:

Proposals will be evaluated based primarily on how well the consultant's services meet the City's objectives. The City does not intend to enter into an agreement solely on the basis of a submitted proposal or otherwise pay for the information solicited or obtained. Subsequent procurement, if any, will be in accordance with appropriate City contractual action.

The selection of a consultant and the execution of a contract, while anticipated, are not guaranteed by the City. The City reserves the right to determine which proposal is in the City's best interest and to award the contract on that basis, to reject any and all proposals, waive any irregularities of any proposal, and negotiate with any potential consultant if such is deemed to be in the best interest of the City.

All proposals will be reviewed and ranked according to competence and qualifications, and consultants may be selected for interviews or oral presentations as may be necessary. If there is one respondent that scores better than all the others, that respondent may be chosen by the City without interviews being conducted.

The consultant shall carry a minimum \$1,000,000 automobile liability insurance, \$2,000,000 general aggregate commercial general liability insurance, and \$1,000,000 professional liability insurance. The consultant shall procure and maintain for the duration of this agreement insurance of the types and in the amounts required by the City against claims for injuries to persons or damage to property, which may arise from or in connection with the performance of the work by the vendor, its agents, representatives, employees, sub consultants, or subcontractors. See Attachment A for Consultant Agreement details to include the full insurance language and requirements.

AWARD OF CONTRACT:

1. After selection of a consultant, the City will then enter into negotiations as to the terms of the agreement and the compensation to be paid to the consultant.
 - a. A cost proposal and scope of work shall be submitted within seven (7) calendar days of the City's request once a consultant has been determined to be the most qualified.
 - b. All cost proposals will remain in effect for 90 days from the date of the City's receipt of the cost proposal.
2. In the event the negotiations between the consultant selected and the City cannot be completed as a result of an inability to reach agreement on the fee for services, or the scope of work to be performed, then at the option of the City, the contract may be awarded to the second most qualified consultant. Negotiations will continue in this sequence until a contract is finalized or all proposals are rejected.
3. The final contract will be submitted to the City of Monroe City Council for approval.
4. The selected consultant will be required to assume responsibility for all services offered in its proposal, whether or not such services are provided by a subcontractor or joint venture arrangement. The selected consultant will be considered the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

PAYMENT:

The consultant will only receive payment for services rendered after the City's receipt of correctly prepared consultant invoices listing name, title, time and a brief explanation of work completed as it relates to the consultant agreements scope of work. The selected consultant will be required to provide an agreement as outlined in the attached City of Monroe Consulting Agreement.

ATTACHMENT A

CONSULTANT AGREEMENT

A proposed Agreement is provided as an attachment with this RFP. It is important that each Proposer review the Agreement prior to submitting a proposal, particularly the Scope of Work. The City typically does not accept changes to the Agreement's terms and conditions. Should the Proposer wish to propose changes to the Agreement's terms and conditions, the desired changes must be identified in the proposal. The City is under no obligation to accept such proposed changes and may reject a proposal based on proposed changes unacceptable to the City.

The City will verify Proposer representations that appear in the proposal. Failure of a Proposer to perform services as represented may result in elimination of the Proposer from further competition or in termination of the Agreement, consistent with the terms of the Agreement.

CONSULTANT AGREEMENT	
PROJECT TITLE AND IDENTIFICATION NUMBER 1	WORK DESCRIPTION 2
CONSULTANT 3	CONSULTANT CONTACT NAME, AND TELEPHONE NO. 4
FEDERAL I.D. NO. 5	BUDGET OR FUNDING SOURCE 6
PROJECT ADMINISTRATOR NAME, ADDRESS AND TELEPHONE NO. 7	MAXIMUM AMOUNT PAYABLE, IF ANY 8
COMPLETION DATE 9	10
	<input type="checkbox"/> Lump Sum <input type="checkbox"/> Cost Plus a Fixed Fee <input type="checkbox"/> Schedule Rate/Time and Materials <input type="checkbox"/> Time and Materials/Not to Exceed

THIS AGREEMENT is entered into on _____, 2020 between the City of Monroe, Washington, hereinafter called "the CITY", and the above person, firm or organization, hereinafter called "the CONSULTANT".

WHEREAS, the CITY desires to accomplish the above-referenced project; and

WHEREAS, the CITY does not have sufficient staff or expertise to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary services for the project; and

WHEREAS, the CONSULTANT has represented to the CITY that the CONSULTANT is in compliance with the professional registration statutes of the State of Washington, if applicable, and has signified a willingness to furnish consulting services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. Retention of Consultant - Scope of Work. The CITY hereby retains the CONSULTANT to provide professional services as defined in this agreement and as necessary to accomplish the scope of work attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. Completion of Work. The CONSULTANT shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONSULTANT shall complete all work required by this agreement according to the schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONSULTANT, shall be deemed a breach of this agreement. The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays caused by circumstances beyond the control of the CONSULTANT. All such extensions shall be in writing and shall be executed by both parties.

3. Payment. The CONSULTANT shall be paid by the CITY for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Work attached. The CONSULTANT shall be entitled to invoice the CITY no more frequently than once per month during the course of the completion of work and services by the CONSULTANT. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 45 days of submittal, unless the CITY gives notice that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONSULTANT agrees to perform all services contemplated by this agreement for no more than said maximum amount.

4. Changes in Work. The CONSULTANT shall promptly make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONSULTANT and appearing therein when required to do so by the CITY. The

CONSULTANT shall make such corrective changes and revisions without additional compensation from the CITY. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the CITY; this work shall be considered as Extra Work and will be paid for as provided in Section 5.

5. Extra Work.

A. The CITY may, at any time, by written order, make changes within the general scope of the agreement in the services to be performed. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or conditions of the agreement, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule or both; and (3) other affected terms, and shall modify the agreement accordingly.

B. The CONSULTANT must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute as provided in Section 18. Notwithstanding any such dispute, the CONSULTANT shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. Ownership of Work Product. Any and all documents, drawings, reports, and other work product produced by the CONSULTANT under this agreement shall become the property of the CITY upon payment of the CONSULTANT'S fees and charges therefore. The CITY shall have the complete right to use and re-use such work product in any manner deemed appropriate by the CITY, provided, that use on any project other than that for which the work product is prepared shall be at the CITY'S risk unless such use is agreed to by the CONSULTANT. Electronic versions of all work products shall be provided to the CITY in a format compatible with CITY software, except to the extent expressly waived in the attached exhibits.

7. Independent Contractor. The CONSULTANT is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONSULTANT, or any employee of the CONSULTANT, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONSULTANT which may arise as an incident of the CONSULTANT performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONSULTANT.

8. Indemnity. The CONSULTANT agrees to hold harmless, indemnify and defend the CITY, its officers, agents, employees and volunteers from and against any and all claims, injuries, losses, suits, costs or liability, including attorneys' fees (collectively, "Claims"), specifically including without limitation Claims resulting from injuries, sickness or death of employees of the

CONSULTANT and/or damage to property, arising out of or otherwise resulting from the acts, errors, or omissions of the CONSULTANT, its officers, agents, subconsultants or employees, in connection with the services required by this agreement, provided, however, that: The CONSULTANT's obligation to indemnify, defend and hold harmless shall not extend to Claims caused by or resulting from the sole willful misconduct or sole negligence of the City.

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 CITY's acceptance or approval of any services or work product under this agreement shall not be deemed to reduce, abridge, limit or otherwise alter the CONSULTANT's obligations as set forth in this section, unless such intent is expressly stated in writing by the CITY.

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

9. Insurance. 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.

A. Minimum Scope of Insurance

CONSULTANT shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be at least as broad as ISO occurrence 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. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability Professional liability insurance appropriate to the CONSULTANT's profession.

B. 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 \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONSULTANT as to the insurance necessary to protect the CONSULTANT'S interests and any decision by the CONSULTANT to carry or not carry insurance amounts in excess of the above is solely that of the CONSULTANT.

C. Other Insurance Provisions.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Excepting the professional liability insurance, the CITY will be named on all insurance as an additional insured. The CONSULTANT shall submit a certificate of insurance to the CITY evidencing the coverages specified above, together with an additional insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement and prior to the performance of any work specified hereunder. The certificates of insurance shall cover the work specified in or performed under this agreement. The certificate and endorsement must be project and/or site specific.

D. Cancellation.

The CONSULTANT shall provide the CITY with written notice of any policy cancellation within two business days of its receipt of such notice. No cancellation, reduction or modification of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

The CONSULTANT's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the CONSULTANT's insurance and shall not contribute with it.

E. Acceptability of Insurers.

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

F. No Limitation.

The 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 equity.

G. 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 this agreement 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.

H. 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.

10. Records Retention and Disclosure. The CONSULTANT shall keep all records related to this agreement for a period of three years following completion of the work for which the CONSULTANT is retained. The CONSULTANT shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONSULTANT. Upon request, the CONSULTANT will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONSULTANT, but the CONSULTANT may charge the CITY for copies requested for any other purpose. The CONSULTANT shall also provide a complete electronic copy of all reports, plans, and specifications upon completion of the work or upon request of the CITY.

Separate from and additional to the foregoing, the CONSULTANT shall fully cooperate with and assist the CITY with respect to any request for public records received by the CITY and related to any public records generated, produced, created and/or possessed by the CONSULTANT and related to the services performed under this agreement. Upon written demand by the CITY, the CONSULTANT shall furnish the CITY with full and complete copies of any such records within five business days.

The CONSULTANT's failure to timely provide such records upon demand shall be deemed a material breach of this agreement. To the extent that the CITY incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, the CONSULTANT shall fully indemnify and hold harmless the CITY as set forth in Section 8.

For purposes of this section, the term "public records" shall have the same meaning as defined by Chapter 42.17 RCW and Chapter 42.56 RCW, as said chapters have been construed by Washington courts.

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

11. Notices. All notices required to be given by either party to the other under this agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

12. Project Administrator. The Project Administrator shall be responsible for coordinating the work of the CONSULTANT, for providing any necessary information for and direction of the CONSULTANT's work in order to ensure that it generally meets the requirements of this agreement, and for reviewing, monitoring and approving the general quality and quantity of such work. The CONSULTANT shall report to and take any necessary direction from the Project Administrator. Provided, that nothing in this section shall be construed as altering the CONSULTANT'S duty of care or otherwise limiting, abridging, waiving or reducing the CONSULTANT'S obligations under this agreement.

13. Conflict Amongst Main Agreement and Attachments. In case of conflict between the Exhibits to this agreement and the portions of this agreement preceding the signature lines (Sections 1-23), the terms of Sections 1-23 shall prevail. Any limitations on liability and indemnification expressed in the attached exhibits beyond those specified in Sections 8 and 9 (prior to signature line) shall be null and void.

14. Termination. The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONSULTANT. Any such notice shall be given to the address specified in Box 3 on page 1. In the event that this agreement is terminated by the CITY other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for all services satisfactorily performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. In the event that services of the CONSULTANT are terminated by the CITY for fault on part of the CONSULTANT, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

15. Non-Discrimination. The CONSULTANT agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The CONSULTANT understands that if it violates this provision, this agreement may be terminated by the CITY and that the CONSULTANT may be barred from performing any services for the CITY now or in the future.

16. Subcontracting or Assignment. The CONSULTANT may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY. Any subconsultants approved by the CITY at the outset of this agreement are named on Exhibit D attached hereto and incorporated herein by this reference as if set forth in full.

17. Non-Waiver. Payment for any part of the work or services by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONSULTANT for any breach of the agreement by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

18. Resolution of Disputes; Governing Law and Venue. This agreement shall be governed by and construed in accordance with the laws of the State of Washington. If any dispute arises out of or in connection with this agreement, including any question regarding its existence, enforceability, interpretation, or validity, the parties will, if practicable, meet and confer in good faith

for a period of fourteen (14) days to attempt to resolve such dispute without an adversary proceeding. If at the end of the fourteen (14) day period such attempt at resolution is unsuccessful, the parties may resort to litigation. The exclusive venue for any litigation arising out this agreement shall be the Snohomish County Superior Court. The substantially prevailing party in any such litigation shall be entitled to an award of its reasonable attorneys' fees.

19. Taxes. The CONSULTANT will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONSULTANT.

20. Code of Ethics. The CONSULTANT and all subconsultants/subcontractors shall also comply with the Monroe Code of Ethics (Exhibit E), Chapter 2.52 MMC. Any violation of Chapter 2.52 MMC by the CONSULTANT or any of its subconsultants/subcontractors shall be considered a material breach of this Agreement.

21. Entire Agreement. This agreement represents the entire integrated agreement between the CITY and the CONSULTANT, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

22. Legal Compliance. In the performance of work under this agreement, the CONSULTANT shall comply with all federal, state and municipal laws, ordinances, rules and regulations that are applicable to the CONSULTANT's business, equipment, and personnel engaged in operations covered by this agreement or accruing out of the performance of such operations.

23. Risk of Loss. The CONSULTANT shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at the CONSULTANT's own risk, and the CONSULTANT shall be solely responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

CONSULTANT:

CITY OF MONROE:

Geoffrey Thomas, City Mayor

By: _____

Title: _____

ATTEST/AUTHENTICATED:

Elizabeth M. Adkisson, MMC, City Clerk

EXHIBIT A

SCOPE OF WORK

DRAFT

EXHIBIT B

COMPLETION SCHEDULE

DRAFT

EXHIBIT C

FEE SCHEDULE

DRAFT

EXHIBIT D

SUBCONSULTANT LIST

DRAFT

EXHIBIT E

MONROE CODE OF ETHICS

Chapter 2.52 CODE OF ETHICS

Sections:

- 2.52.010 Purpose – Construction.
2.52.020 *Repealed.*
2.52.030 Award of contracts prohibited.
2.52.040 *Repealed.*
2.52.050 *Repealed.*
2.52.060 *Repealed.*

2.52.010 Purpose – Construction.

The city of Monroe hereby adopts the code of ethics for municipal officers codified at Chapter 42.23 RCW, inclusive of any future amendments thereof. It is the city's specific intent that the ethical standards set forth at Chapter 42.23 RCW shall govern the conduct of municipal officers within the city of Monroe. Except as expressly provided in this chapter, and Chapter 4.30, Ethics Board, the city disclaims any intent to impose substantive standards of conduct that are more stringent than or otherwise different from those set forth in Chapter 42.23 RCW with respect to the subject matter of said chapter.

2.52.020 *Repealed.*

2.52.030 Award of contracts prohibited.

Members of the city of Monroe, Washington, boards, commissions, and city staff are prohibited from being awarded contracts with the city. Exceptions to this rule are those covered by the CBA, RCW and WAC. This section was submitted to the Monroe city council as an initiative with enough required signatures to be submitted to the voters. The city council adopted the initiative as an ordinance as an alternative to placing on the ballot. Consequently, to the extent required by law, this subsection shall be construed as superseding any conflicting city requirements or requirements that otherwise operate to illegally amend the requirements of an initiative.

2.52.040 *Repealed.*

2.52.050 *Repealed.*

2.52.060 *Repealed.*