



## City of Cashmere

101 Woodring Street  
Cashmere, WA 98815  
Ph (509) 782-3513 Fax (509) 782-2840  
Website [www.cityofcashmere.org](http://www.cityofcashmere.org)

**CITY OF CASHMERE  
TUESDAY, NOVEMBER 13, 2012  
6:00 P.M., CITY HALL**

### **SOCIAL:**

### **WELCOME:**

### **INTRODUCTIONS:**

### **SPEAKERS/PRESENTORS:**

State Senator, Linda Evans Parlette- 12<sup>th</sup> District  
State Representative, Cary Condotta- 12<sup>th</sup> District

- City of Cashmere Updates:
  - Cashmere Wastewater Treatment Facility-Update
  - Tigner Road Improvements-update
  - Railroad Ave Improvements-update
  - Cashmere Riverside Park Improvements
- Port of Chelan County Updates:
  - Cashmere Mill Site-Update
- Cashmere Chamber Updates:
  - Economic Development Group
  - Cashmere Riverside Park Support
  - Cashmere Mill Site Support
- Legislative Updates:
  - Open Discussion

TO ADDRESS THE COUNCIL, PLEASE BE RECOGNIZED BY THE MAYOR AND STATE YOUR NAME WHEN YOU BEGIN YOUR COMMENTS  
**Americans with Disabilities Act (ADA) accommodations provided upon request (48-hour notice required)**

The City of Cashmere is an equal opportunity provider and employer.

To file a complaint of discrimination, write USDA, Director, Office of Civil rights, 1400 Independence Avenue SW, Washington, D.C.  
20250-9410 or call (800) 795-3272 (voice) or (202)720-6382 (TDD).



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CASHMERE CITY COUNCIL MEETING  
TUESDAY, NOVEMBER 13, 2012 7:00 P.M., CITY HALL

### AGENDA

#### CALL TO ORDER

#### FLAG SALUTE

#### EXCUSE ABSENCE

#### ANNOUNCEMENTS & INFORMATION

- October Financial Reports are on the website

#### PUBLIC COMMENT PERIOD (For Items Not on the Agenda)

#### APPROVAL OF AGENDA

#### CONSENT AGENDA

1. Minutes of October 22, 2012 Regular Council Meeting
2. Payroll and Claims Packet Dated November 13, 2012

#### BUSINESS ITEMS

1. 2<sup>nd</sup> Public Hearing on Preliminary Budget for 2013 including possible increase in property tax
2. Ordinance No. 1203 Authorizing the General Property Tax Levy
3. Ordinance No. 1204 Increasing Utility Taxes on garbage, water and sewer services
4. Ordinance No. 1205 Amending Chapter 13.32 relating to latecomer reimbursements
5. 2013 Agreement for Emergency Services
6. 2013 Legal Services – increase in rates
7. Award Tigner Road project to the apparent low bidder – Central Washington Asphalt
8. City of Cashmere/Cashmere Chamber of Commerce Agreement for Lodging Tax funds

#### PROGRESS REPORTS

#### ADJOURNMENT

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MINUTES OF THE CASHMERE CITY COUNCIL MEETING  
MONDAY, OCTOBER 22, 2012 AT CASHMERE CITY HALL

OPENING

Mayor Jeff Gomes opened the regular city council meeting at 7:00 p.m. at City Hall. Clerk-Treasurer Kay Jones took minutes.

ATTENDANCE

	<u>Present</u>	<u>Not Present</u>
Mayor:	Jeff Gomes	
Council:	Skip Moore Jim Fletcher Donna Wynne Derek Knutsen John Bryant	
Staff:	Kay Jones, Clerk-Treasurer Mark Botello, Director of Planning/Building	Bob Schmidt, Director

FLAG SALUTE

ANNOUNCEMENTS & INFORMATION

Mayor Gomes stated that the City received a proposal letter from Woodridge Construction & Development for the City to lease and maintain the parking lot at 131 Cottage Avenue. A copy of the letter was in the council packet.

PUBLIC COMMENT PERIOD

Dave and Karen owners of Woodridge Construction & Development asked why the parking lot item was under announcements and not on the business agenda for discussion. They wanted to discuss whether the council is interested in leasing the property otherwise they were going to fence it off so the public could no longer use the property for parking. They did not want the liability.

The Mayor explained that the parking lot was discussed midyear when the Chamber informed the City they were terminating the lease since the downtown business owners were no longer willing to support it.

APPROVAL OF AGENDA

Councilor Bryant requested that the Cottage Ave parking lot be moved to the business items for discussion and for the addition of follow-through signs on the highway, and City approval of the Water Comprehensive Plan.

MOVED by Councilor Bryant and seconded by Councilor Fletcher to approve the agenda as amended. Motion carried.

CONSENT AGENDA

Minutes of October 8, 2012 Regular Study Session Meeting  
Minutes of October 8, 2012 Regular Council Meeting

Payroll and Claims Packet Dated October 22, 2012

Claim Check Nos. 32670, through 32697 and EFT 09/2012 totaling \$208,439.86

Set Public Hearing Tuesday, November 13, 2012 at 7:00 pm for Preliminary Budget for 2013  
Set Public Hearing Monday, November 26, 2012 at 6:00 pm for Final Budget for 2013  
Set Public Hearing Monday, November 26, 2012 at 7:00 pm for Zoning Map Amendment

MOVED by Councilor Wynne and seconded by Councilor Knutsen to approve the consent agenda. Motion carried.

DOWNTOWN BUSINESS DISTRICT PARKING LOT LEASE

The City was willing to partner with the Chamber when the downtown business owners were financially supporting the lease. The consensus of the council was they were not interested in leasing property for another parking lot. There are plenty of spaces in the other public parking lots and street parking is available.

COUNCIL APPROVAL OF THE WATER COMPREHENSIVE PLAN

MOVED by Councilor Bryant and seconded by Councilor Fletcher to approve and authorize the Mayor to sign a resolution approving the Water Comprehensive Plan. Motion carried.

PUBLIC HEARING ON PRELIMINARY BUDGET FOR 2013

Mayor Gomes opened the Public Hearing at 7:21 p.m. to take public comment on the preliminary budget for 2013. Clerk-Treasurer Kay Jones gave a brief summary of the proposed budget.

The Mayor and staff are proposing a 4% increase in utility tax to help close the gap in the General Government fund. They are also recommending taking the 1% property tax levy and the 3 years banked levies to close the gap in the Public Works fund.

Consensus of the council was that maybe it's time they look at raising revenues to pay for the increases in the public safety contracts.

With no questions or comments from the public the hearing was closed at 7:50 p.m.

ORDINANCE NO. 1202 NEW CHAPTER 2.92 ESTABLISHING PROCEDURES FOR A VENDOR LIST AND SMALL WORKS ROSTER PROCESS

Staff briefly discussed the proposed new Chapter 2.92 of Cashmere Municipal Code. Director Botello pointed out that on Page 2 of Chapter 2.92 the word "telephone" should be removed.

MOVED by Councilor Fletcher and seconded by Councilor Wynne to adopt Ordinance No. 1202 adding a new Chapter 2.92 establishing procedures for a Vendor List and Small Works Roster process as amended. Motion carried.

RESOLUTION NO. 09-2012 REPEALING RESOLUTION NO. 8-2000 RELATED TO SMALL WORKS ROSTER

MOVED by Councilor Fletcher and seconded by Councilor Knutsen to adopt Resolution No. 09-2012 repealing Resolution No. 8-2000 related to small works roster procedures. Motion carried.

RESOLUTION NO. 07-2012 AMENDING RESOLUTION 10-2011 INCREASING WATER RATES  
RESOLUTION NO. 08-2012 AMENDING RESOLUTION 11-2011 INCREASING WASTEWATER RATES  
MOVED by Councilor Fletcher and seconded by Councilor Moore to table Resolution No. 07-2012 increasing water rates and Resolution 08-2012 increasing wastewater rates for further information. Motion carried.

LETTER REQUESTING THE CITY CONSIDER ENTERING INTO AN AGREEMENT DESIGNATING THE LODGING TAX DOLLARS TO THE CASHMERE CHAMBER

The Chamber works with the businesses and the festivals. They would be able to determine where the dollars would be a greater benefit. The Chamber would have the same type of application process or ability to apply for the funds that the City is using.

Staff will work with legal on drafting a contract designating the Hotel Motel Tax funds to the Chamber to use according to the RCW's.

LETTER OF SUPPORT FOR A CENTENNIAL CLEAN WATER GRANT APPLICATION

MOVED by Councilor Bryant and seconded by Councilor Knutsen to authorize the Mayor to send a letter of support for a Centennial Clean Water grant application. Motion carried.

OFF-PREMISES DIRECTORY SIGNAGE

Councilor Bryant mentioned that he would like council to revisit "Off-Premises Directory Signage" within the sign code. He stated he would like better clarification and standards for the allowance of these signs. Planner Botello stated that he would discuss revisiting the "Off-premises Directory Signage" with the Planning Commissioners at their next Planning Commission meeting.

PROGRESS REPORTS

Planner Botello stated the Washington Wildlife and Recreation Coalition (WWRO) supports Cashmere's Riverside Park improvement project. He stated that he will be submitting a WWRO membership application for \$100. He stated that this is part of the grant support process.

Councilor Bryant stated that he will be attending the Chelan/Douglas Homeless Housing funds workshop on Wednesday and Thursday. He stated that there are \$786,896 in grant funds available and that they received combined requests of \$1,650,625.

ADJOURNMENT

Mayor Gomes adjourned the meeting at 8:20 p.m.

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Jeff Gomes, Mayor

Attest:

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Kay Jones, City Clerk-Treasurer

## ORDINANCE NO. 1203

**AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON, AUTHORIZING THE GENERAL PROPERTY TAX LEVY ALLOWED BY RCW 84.55.010; LEVYING THE GENERAL TAXES FOR THE CITY OF CASHMERE, ESTIMATED TO BE \$563,031.19, FOR THE FISCAL YEAR COMMENCING JANUARY 1, 2013 ON ALL PROPERTY, INCLUDING REAL, PERSONAL, AND UTILITY PROPERTY IN SAID CITY WHICH IS SUBJECT TO TAXATION FOR THE PURPOSE OF CARRYING ON THE GENERAL GOVERNMENT OF SAID CITY FOR THE ENSUING YEAR AS REQUIRED BY LAW; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Cashmere, Washington, having considered the City's anticipated financial requirements for 2013, and the amounts necessary and available to be raised by ad valorem taxes on real, personal and utility property; and

WHEREAS, after proper notice pursuant to RCW 84.55.120, the City Council held a public hearing on the 13<sup>th</sup> of November, 2012, wherein it considered revenue sources for the City's General Fund budget for 2013; and

WHEREAS, the City Council, after hearing, and after duly considering all relevant evidence and testimony presented, finds that the City of Cashmere will levy the general taxes for the City of Cashmere as allowed by RCW 84.55.010, in addition to the increase resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, in order to discharge the expected expenses and obligations of the City of Cashmere and in its best interest; and

WHEREAS, the City of Cashmere, Washington, has a population of less than 10,000;

NOW THEREFORE, the City Council of the City of Cashmere, Washington do ordain as follows:

**Section 1. General Levy.** The regular property tax levy, plus a 3.77% increase over the levy from the previous year in the amount of \$19,542.93, plus the maximum dollar amount allowed under the provisions of state law for new construction and improvements to property and any increase in the value of state-assessed property and any annexations that have occurred and refunds made, is hereby authorized for the 2013 property tax levy on all real, personal and utility property authorized for collection in 2013.

**Section 2. Estimated Amount.** For the purpose of compliance with RCW 84.52.020 the City Council estimates for budget purposes that the amount of property tax to be collected in the year 2013 pursuant to Section 1. of this ordinance is \$ 563,031.19.

**Section 3. Certification and Collection.** A certified copy of this ordinance shall be transmitted by the City of Cashmere Clerk/Treasurer to Chelan County and to such other governmental agencies as provided by law. Taxes levied hereunder shall be collected and paid to the Clerk/Treasurer of the City of Cashmere at the time and in the manner provided by the laws of the State of Washington.

**Section 4. Department of Revenue Form.** Attached hereto and marked as Exhibit A is a true and correct copy of the Department of Revenue form requested to be approved by Chelan County. This form is hereby approved and made a part of this ordinance as if set forth in full herein.

**Section 5. Severability.** If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published.

Passed by the City Council of the City of Cashmere and approved by the Mayor this \_\_\_\_\_ day of November, 2012.

CITY OF CASHMERE

By: \_\_\_\_\_  
Jeff Gomes, Mayor

Attest:

\_\_\_\_\_  
For Kay Jones, City Clerk/Treasurer

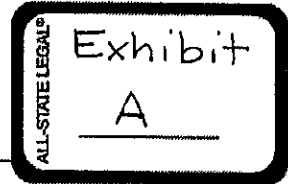
Approved as to form:

\_\_\_\_\_  
Charles D. Zimmerman, City Attorney

Ordinance No:  
Passed by the City Council:  
Published in the Cashmere Valley Record:  
Effective date:



Ordinance / Resolution No. \_\_\_\_\_  
RCW 84.55.120



WHEREAS, the City Council of City of Cashmere has met and considered  
(Governing body of the taxing district) (Name of the taxing district)  
its budget for the calendar year 2013; and,

WHEREAS, the districts actual levy amount from the previous year was \$ 517,419.48; and,  
(Previous year's levy amount)

WHEREAS, the population of this district is  more than or  less than 10,000; and now, therefore,  
(Check one)

BE IT RESOLVED by the governing body of the taxing district that an increase in the regular property tax levy  
is hereby authorized for the levy to be collected in the 2013 tax year.  
(Year of collection)

The dollar amount of the increase over the actual levy amount from the previous year shall be \$ 19,542.93  
which is a percentage increase of .03777 % from the previous year. This increase is exclusive of  
(Percentage increase)

additional revenue resulting from new construction, improvements to property, newly constructed wind turbines,  
any increase in the value of state assessed property, any annexations that have occurred and refunds made.

Adopted this \_\_\_\_\_ day of November, 2012.

\_\_\_\_\_  
Mayor Jeff Gomes  
\_\_\_\_\_

Attest:  
\_\_\_\_\_  
Kay Jones, City Clerk-Treasurer  
Approved as to Form:  
Charles D. Zimmerman

If additional signatures are necessary, please attach additional page. City Attorney

This form or its equivalent must be submitted to your county assessor prior to their calculation of the property tax levies. A certified budget/levy request, separate from this form is to be filed with the County Legislative Authority no later than November 30<sup>th</sup>. As required by RCW 84.52.020, that filing certifies the total amount to be levied by the regular property tax levy. The Department of Revenue provides the "Levy Certification" form (REV 64 0100) for this purpose. The form can be found at: <http://dor.wa.gov/docs/forms/PropTx/Forms/LevyCertf.doc>.

To ask about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users, please call (360) 705-6718. For tax assistance, call (360) 534-1400.



**ORDINANCE NO. 1204**

**AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON AMENDING SUBSECTIONS C, D AND E OF SECTION 5.10.030 OF THE CASHMERE MUNICIPAL CODE, INCREASING UTILITY TAXES ON GARBAGE, WATER AND SEWER SERVICES FROM SIX PERCENT (6%) TO TEN PERCENT (10%); CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.**

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WHEREAS, the City staff has studied the financial projections for the City and evaluated revenue and expenditures for the City anticipated in the year 2013 and future years; and

WHEREAS, in order to balance the City budget and continue to provide the level of services the City has provided to residents and businesses in the City for the past several years, City staff have determined, after first exploring all reasonable methods of reducing costs within the City, that an increase in revenue is warranted; and

WHEREAS, City staff, the Mayor and City Council have studied potential sources of additional revenues for the City and determined that the most equitable manner of increasing City revenue in an amount sufficient to meet City revenue needs is through the implementation of a modest four percent (4%) increase in utility taxes imposed on providers of utility services within the City which includes the City as the provider of garbage, water and sewer utility services; now, therefore,

THE CITY COUNCIL OF THE CITY OF CASHMERE, WASHINGTON DO ORDAIN  
AS FOLLOWS:

Section 1. Subsections C, D, and E of Section 5.10.030 of the Cashmere Municipal Code are hereby amended to read as follows:

**5.10.030 Tax Levy.**

There is hereby levied upon and there shall be collected from every person, firm or corporation, including the City, engaged in carrying on the following business for hire or for sale of a commodity or a service a tax for the privilege of doing business as defined in this Section:

...

- C. There is hereby levied a tax on the sale and service of garbage service provided in the City equal to ten percent (10%) of the gross revenue derived from sales and service of such garbage service.
- D. There is hereby levied a tax on the sale and service of water by the City equal to ten percent (10%) of the gross revenue of the City's water system.
- E. There is hereby levied a tax on the sale and service of sewer services provided by the City equal to ten percent (10%) of the gross revenue of the City's sewer system.

Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. The City Clerk-Treasurer is hereby directed to publish a summary of this ordinance consisting of the title.

Section 4. This ordinance shall be effective at 12:01 a.m. on the first day of January, 2013.

APPROVED:

\_\_\_\_\_  
JEFF GOMES, MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
KAY JONES, CITY CLERK-TREASURER

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

BY: \_\_\_\_\_  
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK	:	_____
PASSED BY THE CITY COUNCIL	:	_____
PUBLISHED	:	_____
EFFECTIVE DATE	:	_____
ORDINANCE NO.	:	_____

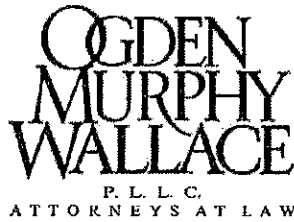
# Staff Summary

**Date:** November 13, 2012  
**To:** Cashmere City Council  
Mayor Gomes  
**From:** Mark Botello  
**RE:** Ordinance No. 1205-Amending Chapter 13.32 relating to latecomers reimbursements.

---

Please see attached the proposed amendments to Chapter 13.32 to the Cashmere Municipal Code related to latecomer reimbursement of the costs of developer constructed utility improvements, including requirements for application, processing, and consideration of utility agreements; containing procedures for establishments of reimbursement area and assessments and other changes to Chapter 13.32.

Staff will go over this in more detail at the Council meeting



CHARLES D. ZIMMERMAN  
czimmerman@omwlaw.com

November 5, 2012

*Confidential-Protected By Attorney-Client Privilege*

**VIA E-MAIL ONLY (MARK@CITYOFCASHMERE.ORG)**

Mark Botello  
Director of Planning & Building  
City of Cashmere  
101 Woodring Street  
Cashmere, WA 98815

Re: Ordinance Amending Utility Reimbursement Agreement Process and Procedures

Dear Mark:

Enclosed is the Ordinance amending Chapter 13.32 and Section 13.01.190 of the Cashmere Municipal Code related to reimbursement of the costs of developer constructed utility improvements.

Pursuant to your authorization, the enclosed Ordinance wholly amends and replaces Chapter 13.32 of the Cashmere Municipal Code ("CMC"), regarding applications for Utility Reimbursement Agreements for Developer-constructed and City-owned Utility Improvements. As discussed, we have revised Chapter 13.32 CMC to make it less procedurally cumbersome for both City Staff (you) and applicants for Utility Reimbursement Agreements to understand and follow. The revised Chapter also provides the City with more flexibility in establishing Reimbursement Assessments for properties located within a Reimbursement Area.

The enclosed Ordinance amends Section 13.01.190 CMC. This section, as existing, purported to set forth a strict specific formula for determining Utility Reimbursement Assessments applicable to Reimbursement Area properties (whether the Utility Improvements were pursuant to a Utility Reimbursement Agreement or a part of a City initiated public works project). Such a formula unnecessarily restricts the City's ability to establish Reimbursement Assessments and local facilities charges. In addition, the existing section established a "beyond benefit area" for purposes of applying Reimbursement Assessments. As we have discussed, procedural due process is not afforded to these property owners and therefore such Assessments would be subject to constitutional challenges.

We revised Section 13.01.190 CMC to completely eliminate both the strict formula for determining assessments and the provisions establishing an Assessment in territory other than the Reimbursement Area which is provided notice and an opportunity for a hearing before the Reimbursement Assessment is imposed. The revised Section 13.01.190 CMC is intended to give the City substantial flexibility in determining how Reimbursement Assessments are computed for each specific Utility Improvement. The City is authorized by state law to establish local facilities charges using any reasonable formula or calculation for City constructed utility improvements. There is no reason to restrict the City to use a particular formula for such assessments, therefore we eliminated the provision in Section 13.01.190 which could be interpreted to bind the City to a particular method of establishing utility rates.

Rather than provide detail within the City Code that selects a method of Assessment with respect to each Utility Reimbursement Agreement, the enclosed Ordinance contains flexibility. For purposes of analyzing and determining what method to use with respect to the establishment of any particular Reimbursement Assessment for a Latecomer Agreement, we suggest you consider the following factors:

1. The total project cost of the Utility Improvements including all costs to design, engineer, construct, administrate, acquire additional easements or rights-of-way, and install the Utility Improvements within a specific geographic area to be served by the Utility Improvements; and
2.
  - a. The total square footage of each parcel benefited by the Utility Improvements;
  - b. The total front footage of each parcel benefited by the Utility Improvements;
  - c. The total number of potential equivalent residential units for the Utility Improvements as determined by an engineering report, including the following factors used to determine total equivalent residential units in a given area or for a given parcel: the total land area, topography, current permitted land uses and zoning density; and/or
  - d. Any other equitable factor to be determined by the City at the time of application and based upon the nature of the utility and construction related to the same.

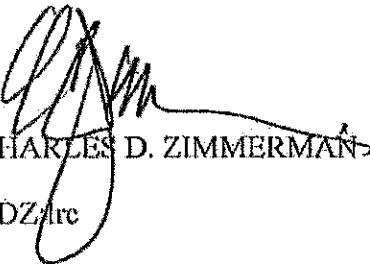
The above list is provided as a guide, but is not exhaustive. There may be other factors the City may want to consider depending upon the particular application for a Utility Reimbursement Agreement.

Mark Botello  
November 5, 2012  
Page 3

After you have had an opportunity to review the enclosed Ordinance, please let me know if you have any questions or concerns regarding the same.

Very truly yours,

OGDEN MURPHY WALLACE, P.L.L.C.



CHARLES D. ZIMMERMAN  
CDZ/lrc

Enclosure

cc: Jeff Gomes, Mayor, w/encl. (via e-mail only)  
Kay Jones, City Clerk-Treasurer, w/encl. (via e-mail only)  
Bob Schmidt, Director of Operations, w/encl. (via e-mail only)

## ORDINANCE NO. 1205

**AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON, AMENDING CHAPTER 13.32 OF THE CASHMERE MUNICIPAL CODE, RELATING TO LATECOMER REIMBURSEMENT OF THE COSTS OF DEVELOPER CONSTRUCTED UTILITY IMPROVEMENTS, INCLUDING REQUIREMENTS FOR APPLICATION, PROCESSING, AND CONSIDERATION OF UTILITY REIMBURSEMENT AGREEMENTS; CONTAINING PROCEDURES FOR ESTABLISHMENT OF REIMBURSEMENT AREAS AND ASSESSMENTS; AMENDING SECTION 13.01.190 OF THE CASHMERE MUNICIPAL CODE REGARDING THE PROCEDURES TO ESTABLISH REIMBURSEMENT ASSESSMENTS; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.**

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**WHEREAS,** Chapter 35.91 RCW authorizes cities to enter into agreements with developers providing for reimbursement of developer-constructed utility improvements by property owners benefitting from such improvements; and

**WHEREAS,** the City previously adopted Chapter 13.32 of the Cashmere Municipal Code ("CMC") to provide a formal process and procedures for entering into reimbursement agreements with developers as authorized by Chapter 35.91 RCW; and

**WHEREAS,** in addition to the application procedures set forth in Chapter 13.32 CMC, the procedures for determining the reimbursement amount to be paid by property owners benefitted or potentially benefitted by the utility improvements pursuant to a reimbursement agreement are further set forth in Section 13.01.190 CMC; and

**WHEREAS,** City staff have reviewed the process and procedures for entering into reimbursement agreements set forth in Chapter 13.32 CMC, and for calculating the reimbursement area assessment as set forth in Section 13.01.190 CMC, and have determined that



the current process and procedures are cumbersome and, in some cases, potentially inconsistent with state law; and

**WHEREAS,** City staff have studied the provisions in Chapter 13.32 CMC and Section 13.01.190 CMC, including specifically the manner in which the City determines the benefit area and calculates the reimbursement assessment applicable to such territory, and recommend that Chapter 13.32 CMC and Section 13.01.190 CMC be amended as set forth in this Ordinance; and

**WHEREAS,** the City Council concurs with the recommendation of City staff and has determined that it is in the best interest of the City to amend Chapter 13.32 CMC and Section 13.01.190 CMC as set forth in this Ordinance; NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF CASHMERE, WASHINGTON DO  
ORDAIN AS FOLLOWS:**

**Section 1.** Section 13.01.190 of the Cashmere Municipal Code is hereby amended to read as follows:

**13.01.190 Reimbursement Fees.**

Reimbursement assessments or fees arising pursuant to a Utility Reimbursement Agreement shall be established pursuant to the provisions of Chapter 13.32 CMC.

**Section 2.** Chapter 13.32 of the Cashmere Municipal Code is hereby amended to read as follows:

**Chapter 13.32  
UTILITY REIMBURSEMENT AGREEMENTS**

<b>Sections:</b>	
<b>13.32.010</b>	<b>Definitions.</b>
<b>13.32.020</b>	<b>Purpose.</b>
<b>13.32.030</b>	<b>Application Eligibility.</b>
<b>13.32.040</b>	<b>Application Contents.</b>
<b>13.32.050</b>	<b>Determination of Reimbursement Area Boundaries and Assessments.</b>
<b>13.32.060</b>	<b>Duration of Agreement.</b>

<b>13.32.070</b>	<b>Resolution of Preliminary Determination - Public Hearing.</b>
<b>13.32.080</b>	<b>Notification to Reimbursement Area Property Owners.</b>
<b>13.32.090</b>	<b>City Council Public Hearing.</b>
<b>13.32.100</b>	<b>Final Determination Ordinance - Written Agreement.</b>
<b>13.32.110</b>	<b>Costs and Fees - Developer Responsibility.</b>
<b>13.32.120</b>	<b>Collection of Assessments.</b>
<b>13.32.130</b>	<b>City - Not Liable.</b>
<b>13.32.140</b>	<b>Release of Assessments.</b>

**13.32.010 Definitions.**

For the purpose of this Chapter the following words or phrases have the meaning set forth herein, unless context indicates otherwise.

A. "Developer" shall mean an individual, firm, corporation, limited liability company or partnership who proposes to construct City owned Utility Improvements in association with improvement of real property within the City limits or its urban growth area.

B. "Director" shall mean the Director of Planning and Building for the City, or his or her authorized designee.

C. "City" shall mean the City of Cashmere, Washington.

D. "Reimbursement Area" shall mean and include the properties that did not contribute to the original cost of the Utility Improvements and who may subsequently tap into or use the same (either through connecting directly or to laterals or branches), and that are subject to a Reimbursement Assessment established pursuant to a Utility Reimbursement Agreement.

E. "Reimbursement Assessment" or "Assessment" shall mean the assessment established pursuant to a Utility Reimbursement Agreement and applied to property within the Reimbursement Area to reimburse the Developer for the costs of constructing the Utility Improvements.

F. "Utility Improvements" shall mean municipal water, wastewater or storm drain improvements, including but not limited to any transmission pipelines, storage facilities, pumping plants, distribution mains, and any appurtenances thereto, constructed by a developer.

G. "Utility Reimbursement Agreement" shall mean a written contract or agreement between the City and one or more developers providing for construction of Utility Improvement and for partial reimbursement to the party causing such improvements to be made of a portion of the costs of such improvements, as more specifically described in Chapter 35.91 RCW, as the same now exists or as it may hereafter be amended.

**13.32.020 Purpose.**

The purpose of this Chapter is to prescribe rules and regulations for the exercise of the authority to enter into Utility Reimbursement Agreements authorized by Chapter 35.91 RCW, as the same now exists or as it may hereafter be amended.

**13.32.030 Application Eligibility.**

A. Whenever a Developer is required by CMC Titles 13, 15, 16, 17 and/or 18, or by other regulations, or an order of the Director or City Council, to construct Utility Improvements that benefit nonparticipating properties, the Developer may apply for a Utility Reimbursement Agreement to establish a Reimbursement Area that includes other properties benefiting from the improvements. Such application shall be filed with the Director within sixty (60) days of the date of completion and final acceptance of the Utility Improvements by the City.

B. In order to be eligible for a Utility Reimbursement Agreement, the cost to construct the Utility Improvements must not be less than ten thousand dollars. The cost of the Utility Improvements shall be determined, based upon a review of the actual construction costs for the project, as certified by the Developer's engineer.

**13.32.040 Application Contents.**

A. Applications for establishment of a Reimbursement Area through a Utility Reimbursement Agreement shall be accompanied by a nonrefundable application fee in an amount set by resolution of the City Council to reimburse the City for expenses incurred by the City in processing the application.

B. An application shall be considered complete upon submission of the fee to the Director along with a written application that includes all of the following items:

1. Legal description of the applicant's property.
2. Detailed "as-built" construction plans and drawings of the entire project prepared and stamped by a licensed civil engineer, which plans and drawings must be consistent with City ordinances, standards, and/or adopted design manuals (as identified by the applicable development review process).
3. Itemization of all costs of construction of the project. Such construction costs shall be signed and stamped by a licensed civil engineer.
4. Scaled and clearly reproducible vicinity drawings, stamped by a licensed civil engineer or licensed land surveyor depicting the improvements, their location, the proposed benefit area (Reimbursement Area) including dimensions and county assessor's numbers for each tax parcel, size of parcels, and proposed method and evaluation for determining benefit.
5. A proposed assessment roll containing the county auditor's tax lot numbers, a certified list of record owners, legal descriptions and proposed Reimbursement Assessment for each separate parcel within the proposed Reimbursement Area as determined as set forth in CMC 13.32.050.

6. Such other information as the Director determines is necessary to properly review the application.

**13.32.050 Determination of Reimbursement Area Boundaries and Assessments.**

A. A Reimbursement Area shall be based upon a determination of which parcels did not contribute to the original cost of the Utility Improvements and who may subsequently tap into or use the same, including not only those who may connect directly thereto, but also those who may connect to laterals or branches connecting thereto.

B. The amount of the Reimbursement Assessment shall be established by the City using procedures to ensure that each property in the Reimbursement Area will be assessed an equitable share of the cost of the construction of the Utility Improvements. In determining the Reimbursement Assessment for Utility Improvements, the City may consider the total project cost of the Utility Improvements including all costs to design, engineer, construct, administrate, acquire additional easements or rights-of-way, and install the Utility Improvements within a specific geographic area to be served by the Utility Improvements, and any other equitable factors to be determined by the City at the time of application.

C. Following recording of the Utility Reimbursement Agreement, Reimbursement Assessments shall apply to all connections made to the Utility Improvements for a period not to exceed 20 years after the date the City makes final acceptance of the Utility Improvements.

**13.32.060 Duration of Agreement.**

No Utility Reimbursement Agreement shall provide for reimbursement for a period longer than twenty years from the date of final acceptance of the Utility Improvements by the City.

**13.32.070 Resolution of Preliminary Determination - Public Hearing.**

A. The Director shall examine applications submitted in accordance with this Chapter and make recommendations to the City Council at a public meeting. The public meeting before the City Council shall be held within thirty (30) days of receipt of the Developer's complete application by the Director. The Director shall provide ten (10) days written notice to the Developer of the date, time and place of the public meeting. The City Council may accept, modify or deny the Developer's proposal. Any action to accept or modify the Developer's proposal shall require the adoption of a resolution of preliminary determination and shall be based on a finding that the properties within the Reimbursement Areas are benefited from the Utility Improvements, and that the method of assessment equitably distributes the cost of installation between all benefited parties. The resolution of preliminary determination shall include the following:

1. A map showing the geographical boundaries of the Reimbursement Area.
2. The Reimbursement Assessments for the Reimbursement Area property.
3. Notification to property owners within the Reimbursement Area of a public hearing to be held to consider final adoption of the preliminary determination

within forty (40) days of the date of the passage of the preliminary determination resolution.

4. Notification to property owners within the Reimbursement Area that the City Council at the public hearing may reduce the size of the Reimbursement Area, increase or decrease the final Assessments to Reimbursement Area property owners, or otherwise modify the terms of the preliminary determination resolution without further notification to the Reimbursement Area property owners; provided that any increase in the Assessment to an individual Reimbursement Area parcel shall not modify the amount set forth in the resolution of preliminary determination by more than ten percent.

5. Notification that the City Council's decision following the public hearing is determinative and final.

6. Notification that the City Council may enter into a Utility Reimbursement Agreement with the Developer to carry out the preliminary determination resolution provisions or any modification thereof consistent with the terms of this Chapter made at the public hearing on the preliminary determination resolution and such Utility Reimbursement Agreement shall be binding on all Reimbursement Area property owners.

B. In reviewing the Director's recommendations, the City Council shall apply the criteria set forth in this Chapter and Chapter 35.91 RCW as it now exists or as it may be hereafter amended. The City Council may adopt, reject or modify the Director's determination.

#### **13.32.080 Notification to Reimbursement Area Property Owners.**

Within ten (10) days of adoption of a resolution making a preliminary determination as provided in CMC 13.32.070, the Director shall send, by certified mail, a copy of the resolution to all property owners of record within the Reimbursement Area.

#### **13.32.090 City Council Public Hearing.**

The City Council's determination to approve a Utility Reimbursement Agreement following the public hearing shall be based upon a finding that the properties within the Reimbursement Area are benefited from the Utility Improvements, and that the method of establishing the Reimbursement Assessment equitably distributes the costs of installation between all benefited properties. The City Council may adopt, reject, or modify the preliminary determination resolution. The determination of the City Council following any such hearing is final.

#### **13.32.100 Final Determination Ordinance - Written Agreement.**

Following the final determination of the City Council after the public hearing, a Utility Reimbursement Agreement in a form prepared by the City attorney and signed by the Developer shall be presented to the City Council containing the final determination of the Reimbursement Assessments for the Reimbursement Area. The Utility Reimbursement Agreement shall contain a provision that the City shall not be responsible for the costs of enforcement of the Utility Reimbursement Agreement and shall not under any circumstances be liable to the Developer or its successors for any of the costs of constructing the Utility Improvements that are the subject of

the Utility Reimbursement Agreement. Upon approval by the City Council, the Mayor shall sign on behalf of the City and the Director shall record the Utility Reimbursement Agreement with the Chelan County Auditor and provide a recorded conformed copy to the Developer. The Utility Reimbursement Agreement shall be enforceable following recording with the Chelan County Auditor.

**13.32.110 Costs and Fees - Developer Responsibility.**

A. Developers petitioning the City Council to establish a Reimbursement Area shall pay all of the City's costs and fees for professional services incurred in establishing or attempting to establish a Utility Reimbursement Agreement with the Developer. The City's costs and fees for professional services shall include, but shall not be limited to, the costs for mailing notices, auditor's recording fees, fees for the City's professional engineering services or other consultant services, and reasonable attorney's fees incurred by the City.

B. In the event that costs incurred by the City as set forth in subsection A exceed the amount of the application fee established pursuant to CMC 13.32.040, the Director shall so advise the City Council and the City Council's approval of the Utility Reimbursement Agreement shall be conditioned upon the prior receipt of payment by the Developer of an amount sufficient to compensate the City for its costs in excess of the application fee.

**13.32.120 Collection of Assessments.**

A. Subsequent to the recording of a Utility Reimbursement Agreement, the City shall not permit connection of a Reimbursement Area property to any Utility Improvements constructed pursuant to the Utility Reimbursement Agreement, unless the Reimbursement Assessment applicable to the property is first paid to the Developer.

B. Upon receipt of any Reimbursement Assessment, the City shall deduct a six percent administrative fee and remit the balance of the Reimbursement Assessment to the Developer or its successor. In the event that through error, the City fails to collect a required Reimbursement Assessment prior to approval of connection to a Utility Improvement, the City shall make diligent efforts to collect such Assessment, but shall under no circumstances be obligated to make payment to the Developer or its successor, or in any other way be liable to such party.

C. Throughout the term of the Utility Reimbursement Agreement the Developer shall notify the City, in writing, of any change of its name or address. Absent such notice, the City is not responsible for locating any Developer or successor entitled to benefits under the Utility Reimbursement Agreement. The Developer may not assign any rights under the Utility Reimbursement Agreement without written notification to the City. Absent such notification, any assignment of rights under the Utility Reimbursement Agreement shall have no effect on the obligations of the City under the Utility Reimbursement Agreement.

D. Notwithstanding any contrary provision above in this Section, each Utility Reimbursement Agreement approved by the City shall include a provision requiring that every

two years from the date the Agreement is executed a Developer or its successor shall provide the City with information regarding the current name, address and telephone number of the Developer or its successor. If the Developer or its successor fails to comply with the notification requirements of this subsection within sixty (60) days of the specified time, then the City may collect any Reimbursement Assessments owed to the Developer or its successor under the Utility Reimbursement Agreement. Such Assessments shall be deposited by the City in the general fund of the City.

E. Any Reimbursement Assessments collected by the City and not claimed by the Developer (or successor) within one hundred-eighty (180) days from the date collected shall become the property of the City. Before the expiration of the one hundred-eighty (180) days, the City shall send to the Developer (or successor), by certified mail, return receipt requested, a final notice of the City's intent to deposit the Reimbursement Assessments in the general fund of the City. If the City does not receive a response in writing by the expiration of the 180 days, the City shall deposit the revenue to the City general fund.

F. In the event the City becomes a party to any litigation arising out of a City attempted enforcement of a Utility Reimbursement Agreement against a Reimbursement Area property owner, the City shall be entitled to recover from the Developer or its successor its reasonable attorneys' fees and costs, which fees and costs shall constitute a lien upon all funds due the Developer or its successor pursuant to the Utility Reimbursement Agreement.

**13.32.130 City - Not Liable.**

A. The City reserves the right to refuse to enter into any Utility Reimbursement Agreement or to reject any application therefore.

B. The City shall not be liable under a Utility Reimbursement Agreement or otherwise to pay for any of the costs of the Utility Improvements constructed by a Developer.

**13.32.140 Release of Assessments.**

When the Reimbursement Assessment is received by the Developer or its successor for a property subject to the Utility Reimbursement Agreement, the Developer or its successor shall record a certificate of payment and release of the Reimbursement Assessment as to the applicable property within sixty (60) days of payment of the Reimbursement Assessment.

**Section 3.** If any section, sentence, clause, or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

**Section 4.** The City Clerk/Treasurer is hereby directed to publish a summary of this Ordinance consisting of the title.

**Section 5.** This Ordinance shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published.

APPROVED:

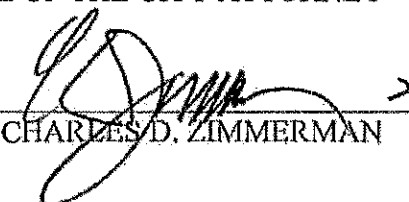
\_\_\_\_\_  
JEFF GOMES, MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
KAY JONES, CITY CLERK/TREASURER

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

BY:

  
\_\_\_\_\_  
CHARLES D. ZIMMERMAN

FILED WITH THE CITY CLERK :  
PASSED BY THE CITY COUNCIL :  
PUBLISHED :  
EFFECTIVE DATE :  
ORDINANCE NO. :

11/5/12  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



SUMMARY OF ORDINANCE NO. \_\_\_\_\_

of the City of Cashmere, Washington

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On the \_\_\_\_\_ of \_\_\_\_\_, 2012, the City Council of the City of Cashmere, Washington, passed Ordinance No. \_\_\_\_\_. A summary of the content of said ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF CASHMERE, WASHINGTON, AMENDING CHAPTER 13.32 OF THE CASHMERE MUNICIPAL CODE, RELATING TO LATECOMER REIMBURSEMENT OF THE COSTS OF DEVELOPER CONSTRUCTED UTILITY IMPROVEMENTS, INCLUDING REQUIREMENTS FOR APPLICATION, PROCESSING, AND CONSIDERATION OF UTILITY REIMBURSEMENT AGREEMENTS; CONTAINING PROCEDURES FOR ESTABLISHMENT OF REIMBURSEMENT AREAS AND ASSESSMENTS; AMENDING SECTION 13.01.190 OF THE CASHMERE MUNICIPAL CODE REGARDING THE PROCEDURES TO ESTABLISH REIMBURSEMENT ASSESSMENTS; CONTAINING A SEVERABILITY PROVISION; AND SETTING AN EFFECTIVE DATE.**

The full text of this Ordinance will be mailed upon request.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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KAY JONES, CITY CLERK-TREASURER

## 2013 AGREEMENT FOR EMERGENCY SERVICES

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the CITY OF CASHMERE, hereafter referred to as the Contractee, and CHELAN COUNTY DEPARTMENT OF EMERGENCY MANAGEMENT, hereafter referred to as CHELAN COUNTY.

WITNESS:

The **Contractee** understands and agrees that **Chelan County** will provide services to the **Contractee** for compliance with Title III of the Superfund Amendment and Reauthorization Act and develop a Comprehensive Emergency Management Plan and program and other emergency operational functions herein described, and as required in Revised Code of Washington, Chapter 38.52, for the Contractee.

### I Services to be provided

**Chelan County** shall provide the necessary equipment and personnel to establish operational plans and programs in cooperation with the **Contractee** as follows:

1. To provide for the continuing compliance with Title III of the Superfund Amendment and Reauthorization Act.
2. To provide an Emergency Services organization and coordinate the operational and support activities for periods before, during and after an emergency and or disaster.
3. To coordinate local Emergency Services planning with the Federal Government, the State of Washington, neighboring counties, military organizations and other support agencies.
4. To provide for the effective utilization of resources within, or from outside the **Contractee** to minimize the effects of disaster and to request assistance, as needed, through established emergency services channels.
5. To recruit, register and identify personnel and provide for compensation coverage for volunteers who suffer injury or equipment loss as a result of emergency services duty.
6. To provide emergency and disaster control and coordination either on-scene or through the emergency operations center.
7. To develop a system for warning the general public of the **Contractee** and to provide for information and guidance to the general public.
8. To provide, on request, support for emergency operations, such as, hazardous material incidents, major fires and other disasters.
9. To perform normal office procedures, correspondence and inventories.
10. To coordinate with elected and appointed officials in the **Contractee**.
11. To provide for communications systems capable of meeting emergency operational requirements either on-scene or at the emergency operations center.

II  
RESPONSE TO EMERGENCIES

**Chelan County** shall respond to the **Contractee** emergencies, upon request; from the Mayor or his designee.

III  
COORDINATION WITH CITY OF CASHMERE OFFICIALS

The Mayor or his representative shall serve as liaison and consultant for operational functions between **Chelan County** and the **Contractee** in performance of the contract. All financial commitments and contract agreements shall be approved by the city council of Cashmere.

IV  
ANNUAL PROGRAM

**Chelan County** and the **Contractee** shall develop an annual program and activity schedule which outlines the basic projects and responsibilities each entity has agreed to accomplish during a given time period.

V  
HOLD HARMLESS

Each party shall be legally responsible for the actions of their individual employees and each party shall be solely responsible for meeting all statutory responsibilities of their jurisdiction; provided the **Contractee** agrees to indemnify, defend and hold harmless **Chelan County** from any legal action arising out of Chelan County's assumption of statutory responsibilities for the **Contractee** by virtue of this contract, unless caused by the Department's negligence or breach of this agreement.

**Chelan County** agrees to indemnify, defend and hold harmless the **Contractee** from action arising out of the contractee's assumption of Chelan County's statutory responsibilities for Chelan County by virtue of this contract, unless caused by the **Contractee's** negligence or breach of this agreement.

VI  
COST BASIS FOR SERVICES

On an annual basis, Chelan County will establish the total cost of county Emergency Management Services provided in the prior year. Utilizing the estimated populations of cities, counties, and towns population data from the State of Washington Office of Financial Management Forecasting Division, ([www.ofm.wa.gov](http://www.ofm.wa.gov)), per capita costs of Emergency Management Services costs will be established. This per capita cost of services will be used as the basis for establishing payments for services.

VII  
PAYMENT FOR SERVICES

The **Contractee** shall pay to **Chelan County** the sum of six thousand, eight hundred and ninety-one dollars and seventy-five cents (\$6,891.75) for services to be provided during the period from January 1 to December 31, 2013, payable in four equal installments of one thousand, seven hundred twenty-two dollars and ninety-four cents (\$1722.94), due at the end of the first month of each calendar quarter.

This contract expires at midnight, **December 31, 2013**. Both parties agree to renegotiate this contract for continuation of services, unless terminated by either party by giving written notice to the other party 120 days prior to the expiration date of this contract.

IN WITNESS THEREOF; Chelan County and Contractee have executed this agreement as of the date and year written below.

**DATED** at Wenatchee, Washington this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

BOARD OF CHELAN COUNTY COMMISSIONERS

\_\_\_\_\_  
RON WALTER, CHAIRMAN

ATTEST: SALLY TAYLOR

\_\_\_\_\_  
KEITH W. GOEHNER, COMMISSIONER

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
DOUG ENGLAND, COMMISSIONER

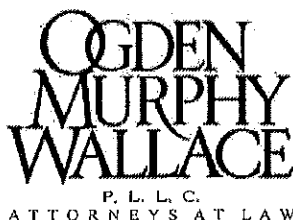
CITY OF CASHMERE MAYOR:

\_\_\_\_\_  
GORDON IRLE

ATTEST: \_\_\_\_\_

DIRECTOR CHELAN COUNTY EMERGENCY MANAGEMENT:

\_\_\_\_\_  
SHERIFF BRIAN BURNETT



CHARLES D. ZIMMERMAN  
czimmerman@omwlaw.com

October 29, 2012

**VIA E-MAIL ONLY**

Mayor Jeff Gomes  
City of Cashmere  
101 Woodring Street  
Cashmere, WA 98815

Re: 2013 Legal Services

Dear Jeff:

Fall is here and that means budget time. You may recall that for 2012, we modified our rate structure to provide two rates for the more experienced attorneys in our office. Prior to 2012, we charged one rate for all attorneys who were members or partner level attorneys. Effective in 2012, we moved away from the single experienced attorney rate to a rate system based upon the number of years of experience of the attorney. As a result, the rates for all member attorneys are no longer the same. In 2012, we began billing the more junior member attorneys at a lower rate. Our proposed discounted hourly rates for legal services for 2013 are set forth in the table below, which includes, for comparison purposes, our 2011 and 2012 rates for legal services for generally the same categories of attorneys. You may note that while there is a slight increase for the most experienced attorneys, including myself, there is a more significant increase for the attorneys who prior to 2012 would have been billed out at the same member rate as all attorneys historically have been. The creation of the multiple tier attorney rate structure was implemented to enable the City to experience some cost savings as newer member attorneys evolve into more seasoned municipal lawyers.

	2011	2012	2013
<b>10 + Year Attorneys</b>	<b>\$ 205</b>	<b>\$ 205</b>	<b>\$ 212</b>
<b>5 - 10 Year Attorneys</b>	<b>\$ 205</b>	<b>\$ 155</b>	<b>\$ 170</b>
<b>Other Attorneys</b>	<b>\$ 140</b>	<b>\$ 130</b>	<b>\$ 135</b>
<b>Paralegals</b>	<b>\$ 75</b>	<b>\$ 75</b>	<b>\$ 75</b>

Established 1902  
A Member of the International Lawyers Network with independent member law firms worldwide

Mayor Jeff Gomes  
October 29, 2012  
Page 2

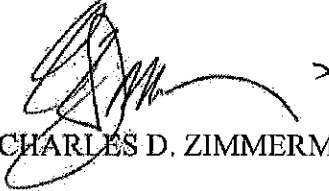
The above discounted rates for services are offered with the understanding that our office will continue to perform all legal services for the City, except in instances when an ethical conflict of interest exists. We pledge to continue to provide efficient, timely and cost effective legal services and look forward to continuing our relationship with the City in 2013, and in future years.

If the 2013 proposed rates are acceptable to the City, please execute this letter in the space provided for your signature and return a copy of this letter to our office. An e-mail of the signed letter is sufficient for our purposes.

If you have any questions concerning this letter or our legal services, do not hesitate to contact me.

Very truly yours,

OGDEN MURPHY WALLACE, P.L.L.C.

  
CHARLES D. ZIMMERMAN  
CDZ:lrc

cc: Kay Jones, City Clerk/Treasurer (via e-mail only)

APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2012,

By: \_\_\_\_\_  
Mayor Jeff Gomes

# Staff Summary

**Date:** November 13, 2012  
**To:** Cashmere City Council  
**Mayor Gomes**  
**From:** Mark Botello  
**RE:** Award Tigner Road project to the apparent low bidder –  
Central Washington Concrete

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On Tuesday, October 30, 2012 the City of Cashmere received bids from the following contractors for the Tigner Road improvement project.

- Central Washington Asphalt, LLC: \$225,798.09
- Granite NW: \$231,493.80
- Mitchel Trucking & Paving: \$237,758.45

The funds for this project are as follows:

- Federal STP-Grant : \$174,730
- State TIB-Grant: \$23,588
- Water Fund: \$16,392
- Additional Funds from Capital: \$11,088
- Total construction cost: \$225,798**

The City has received approval to select the lowest bidder (Central Washington Asphalt) from the State and WSDOT (Feds). The funds for this project are in the 2013 budget.

## CITY OF CASHMERE/CASHMERE CHAMBER OF COMMERCE AGREEMENT

THIS AGREEMENT is made between the City of Cashmere, a municipal Corporation (hereinafter "City"), and the Cashmere Chamber of Commerce, a non-profit corporation (hereinafter "Chamber") to provide visitor information center and tourism promotion services.

WHEREAS, the City Council has determined that it is in the best interest of the citizens of the City to enter into a contractual relationship with the Chamber for the services set forth in this Agreement; now, therefore,

The City and the Chamber agree as follows:

1. Term of Agreement. This Agreement shall commence upon signing by both parties, and continue unless and until terminated by either party pursuant to other provisions of this Agreement.

2. Services to be Provided by Chamber. The Chamber shall operate a visitor information center and provide tourism promotion services, for the purpose of attracting tourists to the City.

3. Use of Special Excise Lodging Tax Funds. Unless specifically prohibited from use by the terms of paragraph 4 of this Agreement, lodging tax funds provided to the Chamber by the City pursuant to this Agreement shall be used for tourism promotion within the meaning of Chapter 67.28 RCW and shall be used to carry out the purposes provided for in paragraph 2 above, including but not limited to, the following:

- a. Maintaining telephone services in a professional and courteous manner for the purpose of communicating with tourists and potential tourists and providing visitor information center information telephonically, via e-mail, and in the Chamber office;
- b. Mailing responses to inquiries concerning tourism;



- c. Providing, maintaining, and updating on a regular basis with current events and information a website promoting City tourism activities;
- d. Maintaining a supply of literature and brochures promoting tourism in the City and local area;
- e. Maintaining a data base of inquiries for tourism-related services and materials;
- f. Paying a portion of the general operating expenses incurred by the Chamber to fund the operation of its visitor information center;
- g. Meeting with City staff, the Mayor and City Council as requested by the City to discuss any concerns or changes deemed necessary to the continuation of this Agreement.

4. Restrictions on the Use of Funds. The special excise lodging tax funds received by the Chamber pursuant to this Agreement shall not be used for the following:

- a. To purchase, construct, or improve capital facilities or equipment;
- b. To fund activities that target the generation of business for any single specific private business entity;
- c. For any purpose that would violate the following as the same exist now or may be hereafter amended:
  - (1) RCW 67.28.1815,
  - (2) Article 8, Section 7 of the Washington State Constitution (gifting of public funds);

5. Chamber Reporting Requirements. The Chamber shall provide the City with a written report at a City Council Meeting or City Council Study Session in October of each year.

6. Termination Due to Change in Law. The City or the Chamber at the sole option of either may terminate this Agreement effective immediately upon providing written notice of termination to the other party in the event Chapter 67.28 RCW is modified such that:

- a. The authority of the City to impose and collect all of the special excise taxes on lodging presently authorized is reduced; or

- b. The purposes for which the funds collected pursuant to Chapter 67.28 RCW may be used are more restrictive than the uses permitted by law on the date of execution of this Agreement by the City.

7. Termination for Breach. Failure of either party to comply with the terms of this Agreement within ten (10) days after notice of any breach shall be cause for the other party to immediately terminate this Agreement.

8. Termination for Convenience. Either the City or Chamber may terminate this Agreement for convenience and the effective date of the termination shall be December 31 of the year in which the notice of termination is given, provided that the notice of termination is provided by the terminating party to the non-terminating party on or before December 1 of the year in which the notice is provided. Notices provided after December 1 in any year shall be effective on December 31 of the year following the year in which the notice is provided.

9. Audit and Records.

- a. The City may at any time, upon providing ten (10) days notice, examine all of the books and records of the Chamber to ensure compliance with the terms of this Agreement; and
- b. The Chamber shall keep all books, records, and receipts for a period of three (3) years following the date to which the books, records, and receipts pertain.

10. Repayment for Breach. In the event the Chamber does not comply with the Chamber reporting requirements set forth in this Agreement or does not comply with any other provisions of this Agreement or expends funds for other than the purposes permitted pursuant to this Agreement, then said funds already paid by the City to the Chamber shall be repaid to the City together with interest at the rate of twelve percent (12%) per annum. The Chamber agrees to pay all of the City's costs and expenses incurred in enforcing the terms of this Agreement, including but not limited to, reasonable attorneys fees.

11. Funds to be Provided by City to Chamber. All of the lodging tax funds received by the City pursuant to Chapter 67.28 RCW and Chapter 3.08 of the Cashmere Municipal Code ("CMC") shall be disbursed by the City to the Chamber annually on or before December 31 of each year this Agreement is in effect. The first disbursement of lodging taxes from the City to

the Chamber shall occur on or before December 31, 2012 and shall include all of the funds received by the City pursuant to the tax enacted in accordance with Chapter 67.28 RCW as enacted by the City Ordinance codified in Chapter 3.08 of the CMC. The funds provided by the City to the Chamber shall be used by the Chamber in the year following the year in which the funds are provided to the Chamber and the Chamber shall remit any unused funds to the City on or before January 15th of the year following the year in which the funds were provided to the Chamber. Only special excise tax lodging funds imposed and actually received by the City shall be available to be paid by the City to the Chamber pursuant to the terms of this Agreement. Notwithstanding any provision herein to the contrary, the maximum amount of funds to be paid by the City to the Chamber in any one (1) year pursuant to this Agreement shall be \$5,000.00.

12. Expenditures by Chamber. Any Chamber expenditures in excess of tax funds actually received by the City shall be at the Chamber's risk, and the City shall have no obligation to reimburse the Chamber for such expenditures.

13. Independent Contractor. The Chamber is an independent contractor with respect to the use and expenditure of the lodging taxes 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 Chamber nor any employee or volunteer of the Chamber shall be entitled to any benefits afforded City employees by virtue of the use and expenditure of the lodging taxes collected by the City or by virtue of the terms of 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, or otherwise assuming the duties of an employer with respect to the Chamber, or any employees or volunteers of the Chamber.

14. Indemnification and Hold Harmless. The Chamber shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the Chamber, its officers, agents, volunteers, and employees, in use and expenditure of the lodging taxes described in this Agreement. With respect to the Chamber's performance required by this Agreement and as to claims against the City, its officers, agents and employees, the Chamber expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for

injuries to its employees and agrees that the obligation to indemnify, defend and hold harmless provided for herein extends to any claim brought by or on behalf of any employee of the Chamber and includes any judgment, award or cost thereof, including attorneys fees.

**THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.**

15. Notices and Information. Notices and information shall be mailed or delivered to the following addresses or such other address as is provided by either party to this Agreement to the other party in writing:

City of Cashmere  
Cashmere City Hall  
Attention: City Mayor  
101 Woodring Street  
Cashmere, WA 98815

Cashmere Chamber of Commerce  
Attention: Manager  
101 Cottage Avenue  
P. O. Box 834  
Cashmere, WA 98815

*[The remainder of this page left blank intentionally]*

16. Entire Agreement and Amendments. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the parties.

**CASHMERE CHAMBER  
OF COMMERCE**

**CITY OF CASHMERE**

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012

APPROVED by the City Council  
at an Open Public Meeting the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

By: \_\_\_\_\_  
Laurie Shorett, President of the Board

By: \_\_\_\_\_  
Jeff Gomes, Mayor

ATTEST/AUTHENTICATED:

ATTEST/AUTHENTICATED:

By: \_\_\_\_\_  
Jill FitzSimmons, Manager

By: \_\_\_\_\_  
Kay Jones, City Clerk-Treasurer