



## 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)

CASHMERE CITY COUNCIL MEETING  
TUESDAY, MAY 26, 2020 6:00 P.M., CITY HALL

**DUE TO THE COVID-19 PANDEMIC AND THE GOVERNOR'S STAY AT HOME ORDER; CITY COUNCIL MEMBERS AND THE PUBLIC ARE REQUIRED TO CALL IN TO PARTICIPATE IN A PHONE CONFERENCE CITY COUNCIL MEETING. PLEASE CALL IN 5 MINUTES PRIOR TO MEETING.**

**PH# 1-(978)-990-5308 Access code: 4330749**

### **AGENDA**

#### CALL TO ORDER

#### ROLL CALL

#### PROCLAMATIONS

Proclaiming May 2020 as Community Action Month

#### ANNOUNCEMENTS

April Financial Report is on the website

#### APPROVAL OF AGENDA

#### CONSENT AGENDA

1. Minutes of May 11, 2020 Regular Council Meeting by Telephone Conference
2. Payroll and Claims Packet Dated May 26, 2020

#### BUSINESS ITEMS

1. Completion and Acceptance of the Sherman Reservoir Roof Replacement project
2. Professional Services Agreement with RH2 Engineering – Pioneer Avenue Safe Routes to School
3. Grant Agreement with the State of Washington Department of Ecology for Periodic Review of the Shoreline Master Program
4. Pertect Inc. Scope of Work for review of the Shoreline Master Program
5. Cashmere Riverside Center Lease Agreement Termination

#### PROGRESS REPORTS

#### ADJOURNMENT

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)**

## Proclamation



**WHEREAS**, The Chelan Douglas Community Action Council has made essential contributions to individuals and families across this region by creating economic opportunities and strengthening communities; and

**WHEREAS**, Community Action is a robust state and local force connecting people to life changing services and creating pathways to prosperity in 99% of all American counties; and

**WHEREAS**, Community Action builds and promotes economic stability as an essential aspect of enabling and enhancing stronger communities and stable homes; and

**WHEREAS**, Community Action promotes community-wide solutions to challenges throughout our cities, and

**WHEREAS**, Community Action delivers innovative services and supports that create greater opportunities for families and children to succeed; and

**WHEREAS**, Community Action insists on community participation and involvement ensuring that all sectors of the community have a voice and will be heard; and

**WHEREAS**, Community Action is celebrating 56 years of innovation, impact, and providing proven results for residents throughout Chelan and Douglas Counties

**NOW, THEREFORE**, I Jim Fletcher, Mayor of Cashmere, do hereby proclaim May 2020 as Community Action Month in recognition of the hard work and dedication of the Chelan Douglas Community Action Council.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of Cashmere, on this 26<sup>th</sup> day of May, 2020.



CITY OF CASHMERE

A handwritten signature in cursive script that reads "James Fletcher".

James Fletcher, Mayor

MINUTES OF THE CASHMERE CITY COUNCIL MEETING  
MONDAY MAY 11, 2020 AT CASHMERE CITY HALL – TELEPHONE CONFERENCE

OPENING

Mayor Jim Fletcher opened the regular City Council meeting via telephone conference at 6:00 p.m. at City Hall. City Clerk-Treasurer Kay Jones took minutes.

Mayor Fletcher announced that this meeting of the City Council is being conducted via a telephone conference call pursuant to Governor Inslee’s Proclamation No. 20-28. Before the roll call for attendance I would like to go over some ground rules for conducting this meeting so that each of the council members can hear and be heard.

If we were seated in the City Council chambers the council would be seated from my right to my left around the Council table as follows: Councilmember Erickson, Councilmember Stephenson, Councilmember Pratt, Councilmember Carlson, and Councilmember Scott.

To provide some organization to this meeting because it is being conducted over the phone, I will be recognizing the councilmembers on each issue before the City Council in the order as listed. When it is a councilmember’s turn to speak, the councilmember may respond with “no comment” or “I agree with the previous comments” or with additional comments or questions.

As items appear on the agenda, motions will be sought first from Councilmember Erickson, and so on from right to left. Motions will be followed by a request by me for a second to the motion in the same order. For example, if Councilmember Erickson makes a motion, Councilmember Stephenson will be requested to respond to whether she seconds the motion, and if not, I will seek a second from Councilmember Pratt and so on.

On each item, I will ask the councilmembers for comments in that order and we will continue to utilize that order until all comments and questions on the agenda items have been made.

Now for the roll call of the councilmembers to document attendance. Please respond with an acknowledgment of your presence when your name is called.

ATTENDANCE

	<u>Present</u>	<u>Not Present</u>
Mayor:	Jim Fletcher	
Council:	Daniel Scott Chris Carlson - phone Dave Erickson - phone Jayne Stephenson Derrick Pratt - phone	
Staff:	Kay Jones, City Clerk-Treasurer Steve Croci, Director of Operations	Chuck Zimmerman, City Attorney
Public:	Kirk Beckendorf, Cashmere Valley Record – phone Bridget Mire, Wenatchee World - phone	

ANNOUNCEMENTS AND INFORMATION

Clerk-Treasurer Kay Jones reported there has not been an increase in delinquent utility accounts since the Stay at Home Order started.

APPROVAL OF AGENDA

MOVED by Councilor Scott and seconded by Councilor Stephenson that all business matters on the agenda are necessary and routine and approve the agenda as submitted. Motion carried 5-0.

CONSENT AGENDA

Minutes of April 27, 2020 Regular Council Meeting by Telephone Conference  
Payroll and Claims Packet Dated May 11, 2020

Claims Direct Pay and Check #40436 and #40437 through #40456 totaling \$100,094.92  
Payroll Direct Pay and Check #40433, through #40435 totaling \$101,554.19

MOVED by Councilor Carlson and seconded by Councilor Pratt that all matters of business in the Minutes of April 27, 2020 were necessary and routine and approve the items on the consent agenda. Motion carried 5-0.

RESOLUTION NO. 04-2020 AUTHORIZING COVID SUPPLEMENTAL LEAVE IN HALF HOUR INCREMENTS

Resolution 03-2020 allows COVID Supplemental Leave in 8-hour increments. The proposed Resolution 04-2020 amends Resolution 03-2020 and allows the Supplemental Leave to be taken in half hour increments.

MOVED by Councilor Erickson and seconded by Councilor Carlson to adopt Resolution No. 04-2020 authorizing COVID Supplemental Leave in half hour increments. Motion carried 5-0.

STREET STRIPING AGREEMENT WITH CHELAN COUNTY PUBLIC WORKS

In previous years the City has contracted annually with the Washington State Department of Transportation to re-stripe the City streets. The proposed Street Striping Agreement is a 5-year contract with Chelan County Public Works. The cost for re-striping the street for 2020 is \$3,625.

MOVED by Councilor Pratt and seconded by Councilor Stephenson to approve the Street Striping Agreement with Chelan County Public works in the amount of \$3,625. Motion carried 5-0.

INTERLOCAL AGREEMENT CHELAN DOUGLAS REGIONAL PORT AUTHORITY – ECONOMIC DEVELOPMENT PLAN FOR EAST CASHMERE PROPERTY

MOVED by Councilor Carlson and seconded by Councilor Erickson to approve the Interlocal Agreement with Chelan Douglas Regional Port Authority for a grant for an economic development plan for the East Cashmere Property in the amount of \$20,000. Motion carried 5-0.

INTERLOCAL AGREEMENT CHELAN DOUGLAS REGIONAL PORT AUTHORITY – RAILROAD AVENUE UTILITIES

MOVED by Councilor Scott and seconded by Councilor Stephenson to approve the Interlocal Agreement with Chelan Douglas Regional Port Authority for a grant for design and engineer extension of utilities to City property on Railroad Avenue in the amount of \$15,000. Motion carried 5-0.

PROGRESS REPORTS

The Mayor informed the City Council that he has made the difficult decision to close the pool for the 2020 season. He is recommending that the City take this time to repair the leak at the pool. Pace Engineering has been out to assess the pool and provide the City with a proposal and scope of work to repair the leak.

Since Chelan County is starting the design phase for their portion of Sunset Highway, from Goodwin Road to the city limits, the Mayor discussed options for completing the City's portion of Sunset Highway. The City needs to decide whether they want to partner with the County now to be included in the design phase or wait and apply for grant funds.

The estimate to have the County design and engineer the City's portion to complete Sunset Highway to the end of city limits is estimated at \$150,000, which would be City funds. The City would then be able to apply for grant funding for the construction phase of the project. The other option is the City can wait and apply for a TIB grant for design and engineering in August, which would mean that the City would miss the timeline for partnering with the County.

The consensus of the City Council was that it would be a good idea to partner with Chelan County for design and engineering the City's portion of Sunset Highway. The Mayor will look at available City funds and what road projects may need to be reprioritized to add the Sunset Highway project to the 2020 Budget.

It was also the consensus of the City Council to have Pace Engineering look at the feasibility of including the extension of city utilities to the Sunset Highway project, which would increase the cost of design.

The Mayor reported that during the last City audit the Auditors focused on the increasing costs of overtime and recommended the City have an overtime policy to control costs. The City's financial and accountability audit will be sometime this year. As recommended, the City's new policy is that all overtime must be pre-approved in writing by the Mayor or Mayor's Designee.

The Mayor talked about how the COVID-19 will affect small businesses and City revenues. He wants to do everything possible to keep from raising rates. He is looking at all aspects of the budget and the economy going forward.

The Commissioners asked for a letter of support from the City in requesting the Governor to consider early approval of Chelan County moving to Phase Two of the four-phase plan for reopening the state after COVID-19. The consensus of the council was to send a letter of support for approval to move to Phase Two early, if it is done safely.

#### ADJOURNMENT

Mayor Fletcher adjourned the meeting at 6:40 p.m.

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James Fletcher, Mayor

Attest:

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Kay Jones, City Clerk-Treasurer

# Staff Summary

**Date:** 5/19/2020

**To:** City Council

**From:** Steve Croci, Director of Operations

**RE:** Accept Sherman Reservoir Roof Replacement Project as Completed

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Bethlehem Construction completed the Sherman Reservoir Roof Replacement Project as of April 25, 2020. This motion is to accept the project as complete.

**Staff Recommendation:**

MOVE to accept the Sherman Reservoir Roof Replacement Project as completed by Bethlehem Construction.

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May 18, 2020

Mr. Kevin Tooley  
Bethlehen Construction  
5505 Titchenal Way  
Cashmere, WA 98815

Subject: Project Completion – Sherman Reservoir Roof Replacement

Dear Kevin:

This letter issues project completion for the City of Cashmere's Sherman Reservoir Roof Replacement Project as of April 25, 2020.

Thank you for completing the project successfully. Please contact me with questions at 509-782-3513.

Sincerely,

A handwritten signature in cursive script that reads "Steve Croci".

Steve Croci  
Director of Operations

cc: Ryan Peterson, RH2

# Staff Summary

**Date:** 5/19/2020

**To:** City Council

**From:** Steve Croci, Director of Operations

**RE:** RH2 Professional Services Agreement - Safe Routes to School

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The City received a grant from Washington Department of Transportation to improve four crosswalks on Pioneer Ave. Four engineering firms responded to the request for proposal to design the project. RH2 was selected as the best qualified to complete the design work. RH2 provided a professional service agreement and a scope of work for the proposed work. The cost for design is \$20,203.27 and is within the estimated budget of the grant.

**Staff Recommendation:**

MOVE to approve the service agreement with RH2 to design the safe routes to schools and allow the mayor to sign the documents.

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## Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): <b>RH2 Engineering, Inc.</b>	
Address 300 Simon St SE, Suite 5, East Wenatchee, WA 98802	Federal Aid Number <b>HLP-SR19(012)</b>
UBI Number <b>600 373 878</b>	Federal TIN <b>91-1108443</b>
Execution Date	Completion Date <b>December 31, 2021</b>
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Project Title <b>Pioneer Avenue Safe Routes to School</b>	
Description of Work The City of Cashmere (City) is contracting with RH2 Engineering, Inc., (RH2) to design safety improvements at several locations throughout the City. The project will install solar powered rectangular rapid flashing beacon (RRFB) systems at four (4) locations along Pioneer Avenue. The proposed project also will design Americans with Disabilities Act (ADA) curb ramps at one of the locations (the other three have compliant ramps).	
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation
Maximum Amount Payable: \$20,203.27	

### Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
<del>Exhibit E</del>	<del>Sub-consultant Cost Computations</del>
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
<del>Exhibit H</del>	<del>Liability Insurance Increase</del>
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE firms maximum practicable opportunities.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Steve Croci  
 Agency: City of Cashmere  
 Address: 101 Woodring Street  
 City: Cashmere State:WA Zip:98815  
 Email: [steve@cityofcashmere.org](mailto:steve@cityofcashmere.org)  
 Phone: (509) 782-3513  
 Facsimile:(509) 782-2840

If to CONSULTANT:

Name: Mr. Erik Howe  
 Agency: RH2 Engineering, Inc.  
 Address: 300 Simon Street SE  
 City: East Wenatchee State:WA Zip: 98802  
 Email: [ehowe@rh2.com](mailto:ehowe@rh2.com)  
 Phone: (509) 886-6761  
 Facsimile:

#### IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

## VIII. Nondiscrimination

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

**XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. 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 SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY 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 this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

**XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

**XV. Federal Review**

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

**XVI. Certification of the Consultant and the Agency**

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

**XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

**XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

## **XX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

**EXHIBIT A**  
**Scope of Work**  
**City of Cashmere**  
**Pioneer Avenue Safe Routes to School**  
May 2020

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**Background**

The City of Cashmere (City) is contracting with RH2 Engineering, Inc., (RH2) to design safety improvements at several locations throughout the City. The project will install solar-powered rectangular rapid flashing beacon (RRFB) systems at four locations along Pioneer Avenue. One of the systems will have an advanced flashing beacon system.

The proposed project also will design Americans with Disabilities Act (ADA) curb ramps at one of the locations along Pioneer Avenue (the other three have compliant ramps).

**Task 1 – Design**

**Objective:** Prepare standard details and design specifications for the installation of solar-powered RRFB systems and ADA curb ramps.

**Approach:**

- 1.1 Evaluate sight distance requirements for the eastern most crossing near Vale Elementary School.
- 1.2 Design ADA compliant ramps on each side of the eastern most crossing near Vale Elementary School.
- 1.3 Prepare plan view exhibit. Utilizing existing aerial imaging, show locations of each of the new sign installations and crosswalk pavement markings. Attend one (1) site visit with City staff to review locations.
- 1.4 Prepare plan details for installation, including foundation and wiring.
- 1.5 Coordinate with a vendor on the product specifications for proposed RRFB systems.
- 1.6 Prepare the Area of Potential Effect (APE) documentation. It is assumed only Executive Order (EO) 05-05 documentation will be required.

**Assumptions:**

- *Contractor will be responsible for obtaining the Labor and Industries permit for electrical work.*
- *No topographic survey will be obtained. All design will be based on aerial imagery and field measurements.*
- *All improvements can be constructed within the City's current right-of-way.*
- *Each meeting will be scheduled at least one (1) week prior to the meeting.*



**Assumptions:**

- *Plans will be shown utilizing existing aerial imaging. It is assumed WSDOT Work Zone Typical Traffic Control Plans will be utilized by the contractor for traffic control.*

**RH2 Deliverables:**

- Plan set, specifications, and opinion of probable construction cost at the 90-percent complete level in electronic PDF format.
- Plan set, specifications, and opinion of probable construction cost for bidding in electronic PDF format.

**Task 3 – Services During Bidding**

**Objective:** Assist the City with bidding the project for award.

**Approach:**

- 3.1 Submit bid documents to online plan center and coordinate advertisement for bid.
- 3.2 Provide clarification and interpretation to the City as needed during the advertisement period.
- 3.3 Prepare up to one (1) addendum if modifications to the project documents are deemed warranted by the City during the advertisement period.
- 3.4 Attend and conduct bid opening.
- 3.5 Review bids and prepare a bid summary tabulation. Based upon the bids received, recommend lowest responsive bidder. *WSDOT concurrence will be required prior to City's award of construction contract.*

**Assumptions:**

- *It is assumed City staff will prepare construction funding documents, project prospectus, and Local Agency Agreement (LAA) supplement to authorize construction funding from the Federal Highways Administration (FHWA).*
- *It is assumed the City will utilize an online bidding service and no hard copies of the bid documents will be produced for bidders. Two (2) bound hard copies of the bid documents will be provided to WSDOT and one (1) hard copy will be provided to the City. It is assumed the City will prepare and send the advertisement to the various publications and pay the publication costs.*
- *RH2 will perform the services in Task 3 up to the amounts included in the attached Fee Estimate. If additional effort is needed, that extra work will be mutually determined by the City and RH2.*

**Provided by City:**

- FHWA funding documents.
- Submit advertisement for bids to publications.

**Exhibit B**  
**DBE Participation Plan**

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In the absence of a mandatory UDBE, the Consultant shall continue their outreach efforts to provide SBE maximum practicable opportunities.

N/A - "State" Funds

D. Specify the Agency's Right to Review Product with the Consultant  
Refer to Exhibit A - Scope of Work.

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E. Specify the Electronic Deliverables to Be Provided to the Agency  
Refer to Exhibit A - Scope of Work.

F. Specify What Agency Furnished Services and Information Is to Be Provided  
Refer to Exhibit A - Scope of Work.

A. Agency Software Suite  
Refer to Exhibit A - Scope of Work.

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B. Electronic Messaging System  
Refer to Exhibit A - Scope of Work.

C. File Transfers Format  
Refer to Exhibit A - Scope of Work.

Exhibit D Continued  
 Consultant Fee Determination - Negotiated Hourly Rate Consultant Agreement

City of Cashmere  
 Pioneer Avenue Safe Routes to School

<u>Classification / Job Title</u>	<u>Hourly Rate</u>	<u>Overhead @ 188.54%</u>	<u>Profit @ 35.00%</u>	<u>Rate Per Hour</u>	<u>x Labor Hours</u>	=	<u>Cost</u>
Professional I	\$ 33.00	\$ 62.22	\$ 11.55	\$106.77	68.0	\$	7,260.36
Professional II	\$ 40.00	\$ 75.42	\$ 14.00	\$129.42	0.0	\$	-
Professional III	\$ 44.00	\$ 82.96	\$ 15.40	\$142.36	0.0	\$	-
Professional IV	\$ 55.00	\$ 103.70	\$ 19.25	\$177.95	0.0	\$	-
Professional V	\$ 65.00	\$ 122.55	\$ 22.75	\$210.30	0.0	\$	-
Professional VI	\$ 70.00	\$ 131.98	\$ 24.50	\$226.48	0.0	\$	-
Professional VII	\$ 85.00	\$ 160.26	\$ 29.75	\$275.01	39.0	\$	10,725.39
Professional VIII	\$100.00	\$ 188.54	\$ 35.00	\$323.54	0.0	\$	-
Professional IX	\$120.00	\$ 226.25	\$ 42.00	\$388.25	0.0	\$	-
Technician I	\$ 22.00	\$ 41.48	\$ 7.70	\$ 71.18	0.0	\$	-
Technician IV	\$ 60.00	\$ 113.12	\$ 21.00	\$194.12	0.0	\$	-
Technician VIII	\$ 65.00	\$ 122.55	\$ 22.75	\$210.30	0.0	\$	-
Administrative I	\$ 16.00	\$ 30.17	\$ 5.60	\$ 51.77	0.0	\$	-
Administrative II	\$ 27.00	\$ 50.91	\$ 9.45	\$ 87.36	0.0	\$	-
Administrative III	\$ 33.00	\$ 62.22	\$ 11.55	\$106.77	6.0	\$	640.62
Administrative IV	\$ 38.00	\$ 71.65	\$ 13.30	\$122.95	0.0	\$	-
Administrative V	\$ 65.00	\$ 122.55	\$ 22.75	\$210.30	0.0	\$	-
						\$	<u>18,626.37</u>
<b><u>Reimbursables</u></b>							
	<b><u>Rate</u></b>	<b><u>Qty</u></b>					
CAD System Per Hour	\$27.50	52				\$	1,430.00
GIS System Per Hour	\$27.50	0				\$	-
CAD Plots Half Size	\$2.50	32				\$	80.00
CAD Plots Full Size	\$10.00	0				\$	-
CAD Plots Large	\$25.00	0				\$	-
In-house copies (each) 8.5" X 11" B&W	\$0.09	360				\$	32.40
In-house copies (each) 8.5" X 14" B&W	\$0.14	0				\$	-
In-house copies (each) 11" X 17" B&W	\$0.20	0				\$	-
In-house copies (color) (each) 8.5" X 11" Color	\$0.90	0				\$	-
In-house copies (color) (each) 8.5" X 14" Color	\$1.20	0				\$	-
In-house copies (color) (each) 11 X 17" Color	\$2.00	0				\$	-
Mileage	\$ 0.575	60				\$	<u>34.50</u>
						\$	<u>\$1,576.90</u>
Subconsultant Costs:						\$	-
Subconsultant Markup:						\$	-
Total Subconsultant:						\$	-
Grand Total:							<b>\$20,203.27</b>

Prepared by:  
 E. Howe

## **Exhibit F**

### **Title VI Assurances**

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

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

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

**Exhibit G-1(a) Certification of Consultant**

I hereby certify that I am the and duly authorized representative of the firm of  
RH2 Engineering, Inc.

whose address is

300 Simon Street SE, Suite 5, East Wenatchee, WA 98802

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Cashmere

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

RH2 Engineering, Inc.

Consultant (Firm Name)

5/20/2020

Paul R. Cross - Executive Vice President

Signature (Authorized Official of Consultant)

Date

## Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; an
  - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

RH2 Engineering, Inc.

Consultant (Firm Name)



5/20/2020

Paul R. Cross - Executive Vice President

Signature (Authorized Official of Consultant)

Date



***Alleged Consultant Design Error Procedures***

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

**Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

**Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

**Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

**Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

## **Consultant Claim Procedures**

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The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

### **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

### **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

# Staff Summary

**Date:** 5/19/2020  
**To:** City Council  
**From:** Steve Croci, Director of Operations  
**RE:** Grant Agreement with DOE - Shoreline Master Plan Review

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A periodic review of the Shoreline Master Program is due in June of 2021. Washington Department of Ecology awarded the City of Cashmere a \$11,200 grant to review and update, as necessary, the Shoreline Master Plan. The grant funding will be used to hire a contractor to review and update the plan.

**Staff Recommendation:**

MOVE to accept the grant from the Washington Department of Ecology to review and update to the Shoreline Master Plan and authorize the Mayor to sign the agreement.

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**Agreement No. SEASMP-1921-Cashme-00029**

**SHORELANDS SHORELINE MASTER PROGRAM AGREEMENT**

**BETWEEN**

**THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY**

**AND**

**CITY OF CASHMERE**

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and City of Cashmere, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

**GENERAL INFORMATION**

Project Title:	Shoreline Master Program – Periodic Review
Total Cost:	\$11,200.00
Total Eligible Cost:	\$11,200.00
Ecology Share:	\$11,200.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2019
The Expiration Date of this Agreement is no later than:	06/30/2021
Project Type:	Periodic Review of the Shoreline Master Program

**Project Short Description:**

The RECIPIENT will conduct a periodic review of the Shoreline Master Program (SMP) that is developed in a manner consistent with requirements of the Shoreline Management Act (SMA), RCW 90.58, and its implementing rules, WAC 173-26, including the Shoreline Master Program Guidelines (SMP Guidelines).

**Project Long Description:**

The purpose of the Shoreline Master Program periodic review is to (a) assure that the master program complies with applicable law and SMP Guidelines in effect at the time of the review, and (b) assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter RCW 36.70A, if applicable. Local governments should also consider amendments needed to address changed circumstances, new information, or improved data.

Agreement No: SEASMP-1921-Cashme-00029  
Project Title: Shoreline Master Program – Periodic Review  
Recipient Name: City of Cashmere

Please note: Beyond the scope of this agreement, the RECIPIENT will continue the SMP formal adoption process as stated in the SMA and WAC 173-26. Work related to these activities and formal adoption by the local governing body is eligible for reimbursement under this grant, provided it is completed by June 30, 2021. The adoption process includes the activities shown below.

1. Complete SEPA review and documentation

Conduct SEPA review pursuant to the State Environmental Policy Act (RCW 43.21C).

2. Provide GMA 60-day notice of intent to adopt

For local governments planning under the Growth Management Act, notify ECOLOGY and the Department of Commerce of intent to adopt the SMP amendment at least 60 days in advance of final local approval, pursuant to RCW 36.70A.106.

3. Hold public hearing

Hold at least one public hearing prior to local adoption of the draft SMP or Findings of Adequacy, consistent with the requirements of WAC 173-26-100 or WAC 173-26-104.

4. Prepare a responsiveness summary

Prepare a summary responding to all comments received during the public hearing and the public comment period. The names and mailing addresses of all interested parties providing comment shall be compiled.

5. Adopt SMP and submit to ECOLOGY

Complete the adoption process for the SMP update under either WAC 173-26-100 or WAC 173-26-104 and submit the locally-adopted Draft SMP amendment or Findings of Adequacy and Periodic Review Checklist to ECOLOGY under WAC 173-26-110.

The RECIPIENT will use grant funds to pay for the following tasks:

Task 1 Project Oversight: Coordination, Management and Administration.

Task 3 Public Participation.

Task 4 Review Shoreline Master Program and Draft Revisions, If needed.

Task 5 Final Draft SMP or Findings of Adequacy.

The RECIPIENT will pay for the following tasks using their own funds:

Task 2 Secure Consultant Services, If Needed.

Overall Goal:

Periodic Review Checklist and final draft SMP amendment or Findings of Adequacy.

Agreement No: SEASMP-1921-Cashme-00029  
Project Title: Shoreline Master Program – Periodic Review  
Recipient Name: City of Cashmere

**RECIPIENT INFORMATION**

Organization Name: City of Cashmere

Federal Tax ID: 91-6001408

DUNS Number: 070978499

Mailing Address: 101 Woodring St  
Cashmere, WA 98815

Physical Address: 101 Woodring St  
Cashmere, Washington 98815

Organization Email: [steve@cityofcashmere.org](mailto:steve@cityofcashmere.org)

Organization Fax: (509) 860-2840

**Contacts**

Agreement No: SEASMP-1921-Cashme-00029  
Project Title: Shoreline Master Program – Periodic Review  
Recipient Name: City of Cashmere

<b>Project Manager</b>	Steve Croci Director of Operations  101 Woodring St Cashmere, Washington 98815 Email: <a href="mailto:steve@cityofcashmere.org">steve@cityofcashmere.org</a> Phone: (509) 782-3513
<b>Billing Contact</b>	Kay Jones City Clerk-Treasurer  101 Woodring St Cashmere, Washington 98815 Email: <a href="mailto:kay@cityofcashmere.org">kay@cityofcashmere.org</a> Phone: (509) 860-5619
<b>Authorized Signatory</b>	James Fletcher Mayor  101 Woodring St Cashmere, Washington 98815 Email: <a href="mailto:mayor@cityofcashmere.org">mayor@cityofcashmere.org</a> Phone: (509) 860-5619

Agreement No: SEASMP-1921-Cashme-00029  
Project Title: Shoreline Master Program – Periodic Review  
Recipient Name: City of Cashmere

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
Shorelands  
PO BOX 47600  
Olympia, WA 98504-7600

Physical Address: Shorelands  
300 Desmond Drive SE  
Lacey, WA 98503

**Contacts**

<b>Project Manager</b>	Lennard Jordan  1250 W Alder St. Union Gap, Washington 98903-0009 Email: <a href="mailto:ljor461@ecy.wa.gov">ljor461@ecy.wa.gov</a> Phone: (509) 457-7125
<b>Financial Manager</b>	Amy Krause  PO Box 47600 Olympia, Washington 98504-7600 Email: <a href="mailto:amkr461@ecy.wa.gov">amkr461@ecy.wa.gov</a> Phone: (360) 407-7107



**AUTHORIZING SIGNATURES**

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

Washington State  
Department of Ecology

City of Cashmere

By: \_\_\_\_\_

By: \_\_\_\_\_

Gordon White  
Shorelands  
Program Manager  
Date

James Fletcher  
Mayor  
Date

Template Approved to Form by  
Attorney General's Office

**SCOPE OF WORK**

Task Number: 1 **Task Cost: \$500.00**

Task Title: 1. Project Oversight: Coordination, Management, and Administration

Task Description:

The RECIPIENT will provide necessary project oversight to complete the scope of work in compliance with this ECOLOGY agreement, which includes project coordination, project management, and project administration.

- A. The RECIPIENT will coordinate with ECOLOGY throughout the SMP review process. The RECIPIENT will provide ECOLOGY opportunities to review draft deliverables at appropriate intervals. ECOLOGY will provide ongoing technical assistance, and will evaluate consistency of deliverables with the Shoreline Management Act and applicable guidelines throughout the review process.
- B. The RECIPIENT will coordinate with other applicable federal, state and local agencies, neighboring jurisdictions, and Indian tribes as provided in the Guidelines and SMA procedural rules. In addition, the RECIPIENT will consult with other appropriate entities which may have useful information if necessary.
- C. The RECIPIENT will conduct project management activities including compliance with state statutes and rules, project scheduling, adherence to the scope of work, timelines, and due dates; request for, and if applicable, conducting the competitive procurement process including preparation of contractor bidding documents, advertisements, and grant monitoring.
- D. The RECIPIENT will submit quarterly progress reports and payment requests (PRPRs) with supporting documentation; maintain project records; and submit ECOLOGY-approved deliverables by the due dates established between ECOLOGY and the RECIPIENT.

Task Goal Statement:

Properly manage and fully document the project in accordance with ECOLOGY's grant administration requirements.

Task Expected Outcome:

Timely and complete submittal of requests for reimbursement, quarterly progress reports and recipient closeout report.  
 Properly maintained project documentation.

Recipient Task Coordinator: Steve Croci

**1. Project Oversight: Coordination, Management, and Administration**

**Deliverables**

Number	Description	Due Date
1.1	Progress reports are due quarterly.	
1.2	Recipient Close Out Report	06/30/2021

**SCOPE OF WORK**

Task Number: 2 **Task Cost: \$0.00**

Task Title: 2. Secure Consultant Services, If Needed

Task Description:

If applicable, the RECIPIENT will:

A. Secure qualified consultant services

In accordance with the RECIPIENT or State of Washington procurement procedures, the RECIPIENT will enter into a contract with the selected consultant(s) and prepare a sub agreement in accordance with the scope of work in this agreement.

Task Goal Statement:

To ensure the RECIPIENT has qualified personnel to conduct the scope of this project.

Task Expected Outcome:

If applicable, signed contract and sub-agreement with consultant(s).

Recipient Task Coordinator: Steve Croci

**2. Secure Consultant Services, If Needed**

**Deliverables**

Number	Description	Due Date
2.1	Final signed consulting contract. Upload to EAGL per the date in the Deliverable Due Dates form.	
2.2	Update in quarterly progress report.	

**SCOPE OF WORK**

Task Number: 3 **Task Cost: \$500.00**

Task Title: 3. Public Participation

Task Description:

The RECIPIENT will:

A. Develop a Public Participation Plan

Prepare and disseminate a public participation plan to invite and encourage public involvement in the SMP periodic review consistent with WAC 173-26-090. The public participation plan should include applicable local requirements such as planning commission review and formal hearings, as well as applicable state notice requirements.

B. Conduct public participation activities

Implement the public participation plan throughout the course of the SMP periodic review process.

Task Goal Statement:

To inform and involve all stakeholders in the SMP periodic review process.

Task Expected Outcome:

Continuous public participation activities throughout the SMP periodic review process.

Recipient Task Coordinator: Steve Croci

**3. Public Participation**

**Deliverables**

Number	Description	Due Date
3.1	Public Participation Plan. Upload to EAGL per the date in the Deliverable Due Dates form.	
3.2	Updates of public involvement activities in progress reports.	

## SCOPE OF WORK

Task Number: 4 **Task Cost: \$9,200.00**

Task Title: 4. Review Shoreline Master Program and Draft Revisions, If Needed

### Task Description:

The RECIPIENT will:

A. Review the SMP to determine if revisions are needed

1. Review amendments to chapter 90.58 RCW and Ecology rules that have occurred since the Shoreline Master Program was last amended, and determine if local amendments are needed to maintain compliance. Ecology will provide a checklist of legislative and rule amendments to assist local governments with this review.

2. Review changes to the comprehensive plan and development regulations to determine if the Shoreline Master Program policies and regulations remain consistent with them. Document the consistency analysis to support proposed changes to the Shoreline Master Program or Findings of Adequacy.

3. Conduct additional analysis deemed necessary to address changing local circumstances, new information or improved data.

B. Draft revised SMP goals, policies and regulations, or prepare Findings of Adequacy

1. Prepare amended goals and policies or regulations identified through the review process. Use the checklist to identify where in the SMP changes are made to address applicable statutory or regulatory changes.

2. Where the review conducted under Task 4A concludes no changes are necessary, prepare draft Findings of Adequacy.

### Task Goal Statement:

To review the SMP to determine if changes are necessary, and revise the SMP if changes are deemed necessary.

### Task Expected Outcome:

A completed Periodic Review Checklist documenting the initial staff review of the SMP, and either initial draft SMP amendments or draft Findings of Adequacy.

Agreement No: SEASMP-1921-Cashme-00029  
Project Title: Shoreline Master Program – Periodic Review  
Recipient Name: City of Cashmere

Recipient Task Coordinator: Steve Croci

**4. Review Shoreline Master Program and Draft Revisions, If Needed**

**Deliverables**

Number	Description	Due Date
4.1	A Periodic Review Checklist documenting consideration of statutory amendments, and internal consistency review. Upload to EAGL per the date in the Deliverable Due Dates form.	
4.2	Initial draft SMP amendments or Findings of Adequacy and supporting documentation. Upload to EAGL per the date in the Deliverable Due Dates form.	

**SCOPE OF WORK**

Task Number: 5 **Task Cost: \$1,000.00**

Task Title: 5. Final Draft SMP or Findings of Adequacy

Task Description:

The RECIPIENT will:

A. Conduct public review process

Conduct a local public review process for the proposed Shoreline Master Program as provided in the SMA and WAC 173-26. Where amendments to the SMP are proposed they shall contain applicable shoreline goals, policies, or regulations with copies of any provisions adopted by reference. Where no changes are needed, the local process will include a formal Findings of Adequacy.

B. Assemble final draft amendment or Findings of Adequacy

Assemble a complete SMP final draft amendment in preparation for review and approval by the local jurisdictional governing body. Where the review determines that no changes are needed, the Recipient will prepare a formal Findings of Adequacy.

Task Goal Statement:

Complete a Shoreline Master Program final draft amendment or Findings of Adequacy.

Task Expected Outcome:

A Shoreline Master Program final draft amendment or Findings of Adequacy.

Recipient Task Coordinator: Steve Croci

**5. Final Draft SMP or Findings of Adequacy**

**Deliverables**

Number	Description	Due Date
5.1	Updates of public review process activities in progress report.	
5.2	Submit an SMP final draft amendment or Findings of Adequacy, with relevant supporting documentation and a complete Periodic Review checklist. Upload to EAGL per the date in the Deliverable Due Dates form.	

**BUDGET**

**Funding Distribution EG200326**

**NOTE:** *The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: Model Toxics Control Operating Account (MT  
 Funding Type: Grant  
 Funding Effective Date: 07/01/2019  
 Funding Expiration Date: 06/30/2021

Funding Source:

Title: Model Toxics Control Operating Account (MTCOA)  
 Type: State  
 Funding Source %: 100%  
 Description: Model Toxics Control Operating Account (MTCOA)

Approved Indirect Costs Rate: Approved State Indirect Rate: 0%  
 Recipient Match %: 0%  
 InKind Interlocal Allowed: No  
 InKind Other Allowed: No  
 Is this Funding Distribution used to match a federal grant? No

<b>Model Toxics Control Operating Account (MTCOA)</b>	<b>Task Total</b>
1. Project Oversight: Coordination, Management, and Administration	\$ 500.00
2. Secure Consultant Services, If Needed	\$ 0.00
3. Public Participation	\$ 500.00
4. Review Shoreline Master Program and Draft Revisions, If Needed	\$ 9,200.00
5. Final Draft SMP or Findings of Adequacy	\$ 1,000.00

**Total: \$ 11,200.00**



**Funding Distribution Summary**

**Recipient / Ecology Share**

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Model Toxics Control Operating Account (MTCOA)	0.00 %	\$ 0.00	\$ 11,200.00	\$ 11,200.00
<b>Total</b>		\$ 0.00	\$ 11,200.00	\$ 11,200.00

**AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

**SPECIAL TERMS AND CONDITIONS**

Deliverable Due Date Form:

The RECIPIENT will negotiate the task deliverable due dates with the ECOLOGY Project Manager, and the ECOLOGY Project Manager will enter the information in the Deliverable Due Date EAGL form. The RECIPIENT will keep track of these due dates, and will note any date changes on the quarterly progress reports. The Deliverable Due Date form can be found on the Application Menu - Forms page in EAGL. (Note: This form does not automatically print out with the agreement.)

Document Accessibility Requirements (as described in the General Terms and Conditions of this Agreement: ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY):

For documents produced under this agreement intended to be published, posted, or hosted on ECOLOGY’s external web site, the RECIPIENT shall provide the documents in both their “native format” (such as Word, Excel, PowerPoint) and in PDF format (latest version of Adobe Acrobat Pro or compatible). The PDF documents must satisfactorily pass the Adobe Acrobat Pro Accessibility Checker (Full Check). The RECIPIENT will provide ECOLOGY the Accessibility Checker’s report. ECOLOGY will review the PDF Accessibility results and may request the RECIPIENT remedy any known issues. ECOLOGY reserves the right to perform independent testing to validate accessibility and may require the RECIPIENT remedy any identified issues before acceptance of the document. For assistance concerning Accessibility, visit state of Washington, Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>).

**GENERAL FEDERAL CONDITIONS**

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

**A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY**

**EXCLUSION:**

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for

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 Project Title: Shoreline Master Program – Periodic Review  
 Recipient Name: City of Cashmere

- debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
  3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
  4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
  5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled “CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
  6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
  7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
  8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

#### **B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:**

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at [www.frs.gov](http://www.frs.gov) <http://www.frs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.frs.gov](http://www.frs.gov) <http://www.frs.gov>.

## GENERAL TERMS AND CONDITIONS

### Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

#### GENERAL TERMS AND CONDITIONS AS OF LAST UPDATED 7-1-2019 VERSION

##### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

##### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

##### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

##### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
  - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
  - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
  - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.

- Make the IDP readily available to anyone working at the project site.
  - Discuss the IDP with staff and contractors working at the project site.
  - Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
- Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

#### 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

#### 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

#### 7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this agreement. Failure to comply may result in delayed reimbursement.

#### 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of

Washington which affect wages and job safety.

- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

#### 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

#### 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review. The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in

accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

## 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

## 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

#### 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

#### 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

#### 20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through

September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.

e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.

b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.

d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.

e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:

1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.

2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.

g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.



Agreement No: SEASMP-1921-Cashme-00029  
Project Title: Shoreline Master Program – Periodic Review  
Recipient Name: City of Cashmere

d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder. RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced.

Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

### 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

### 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

### 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

### 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

### 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and

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Recipient Name: City of Cashmere

imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing, <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the agreement and any amendments. If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

### c) By Mutual Agreement

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ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

# Staff Summary

**Date:** 5/19/2020  
**To:** City Council  
**From:** Steve Croci, Director of Operations  
**RE:** Perteet Inc Task Assignment - Shoreline Master Plan Review

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A periodic review of the Shoreline Master Plan is due in June of 2021. Perteet Inc., the City's on-call planner, provided a task assignment with a description of tasks and deliverables to review and update the Plan, as necessary. Grant funding (\$11,200) from Washington Department of Ecology will be used to pay Perteet Inc. The Task Assignment to review the plan is \$ \$10,700.

**Staff Recommendation:**

MOVE to approve the task Assignment with Perteet Inc. to review the Shoreline Master Plan and authorize the mayor to sign documents.

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**CITY OF CASHMERE  
On-Call Planning Services Agreement**

*Formal Task Assignment Document*

Consultant: Perteet, Inc.

Task Number: 3

The general provisions and clauses of Agreement for On-Call Consultant Services dated February 25, 2020 shall be in full force and effect for this Task Assignment

Location of Project: City of Cashmere

Project Title: Shoreline Management Plan Update

Maximum Amount Payable Per Task Assignment: \$ 10,700.00

Completion Date: June 30, 2021

Description of Work:

**Task 1: General Project Management**

- Prepare monthly invoice and progress reports
- Attend regular project update meetings, as scheduled by the City.

**Task 2: Shoreline Management Plan Update**

Perteet will support the City's periodic review of the Shoreline Management Plan. As required by the Department of Ecology grant agreement with the City of Cashmere, project elements include:

- Ensure that the master program complies with applicable law and SMP Guidelines in effect at the time of the review.
- Ensure consistency of the master program with the City of Cashmere Comprehensive Plan and development regulations.
- Consider SMP amendments needed to address new information, improved data, or changed circumstances.
- Prepare Periodic Review Checklist.
- Draft revised SMP or findings of adequacy.
- Develop a public participation plan that includes at least one public hearing of the draft SMP with the Planning Commission and public review period.
- Complete SEPA review and 60-day notice of intent to adopt.
- Review comments submitted during the public comment period and prepare responsiveness summary.
- Support adoption of the SMP and submit adopted SMP and Periodic Review Checklist to Department of Ecology.

Deliverables:

- Responsiveness summary, public outreach plan, periodic review checklist.
- Draft and final draft plan, in Word format



City of Cashmere Signature: \_\_\_\_\_

Date \_\_\_\_\_

Pertect Signature: \_\_\_\_\_

Date: 05/19/2020

*Crystal L. Donner*  
\_\_\_\_\_  
Crystal L. Donner, President



Project Task Order 3 - SMP Update  
 Client City of Cashmere  
 PM Christina Wollman

Contract Start Date 5/17/2020  
 Contract End Date 6/30/2021  
 Contract Duration: 13 Months

Last Update date 5/19/2020  
 Perteet Project No. 20200033.003

Task	Billing Rate	Lead Planner/Manager	Planner II	Accountant	Total Hours	Labor Dollars
Task 1: General Project Management		\$140.00	\$120.00	\$100.00		
		6.00		4.00	10.00	\$1,240.00
<b>Total Task 1: General Project Management</b>		<b>6.00</b>	<b>0.00</b>	<b>4.00</b>	<b>10.00</b>	<b>\$1,240.00</b>
Task 2: SMP Update		50.00	18.00		68.00	\$9,160.00
<b>Total Task 2: SMP Update</b>		<b>50.00</b>	<b>18.00</b>	<b>0.00</b>	<b>68.00</b>	<b>\$9,160.00</b>
<b>Total Hours</b>		<b>56.00</b>	<b>18.00</b>	<b>4.00</b>	<b>78.00</b>	
<b>Total Dollars</b>		<b>\$7,840.00</b>	<b>\$2,160.00</b>	<b>\$400.00</b>		<b>\$10,400.00</b>

<b>Expenses:</b>	
Mileage - \$.575	300
<b>Totals:</b>	<b>300</b>

<b>SUMMARY</b>	
Labor	\$10,400.00
Expenses	\$300.00
Subconsultants	\$0.00
<b>CONTRACT TOTAL</b>	<b>\$10,700.00</b>