



## 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  
MONDAY, SEPTEMBER 26, 2022, 6:00 P.M., CITY HALL

**THE PUBLIC CAN ATTEND IN PERSON, CALL-IN OR LOG-IN TO ZOOM TO PARTICIPATE IN THE CITY COUNCIL MEETING. PLEASE CALL-IN OR LOGIN 5 MINUTES PRIOR TO MEETING.**

**To Join the Meeting Go To <https://zoom.us>  
Meeting ID: 882 719 9871 Passcode: 788276  
Audio Only: PH# 1-(253)-215-8782**

### **AGENDA**

CALL TO ORDER - ROLL CALL – FLAG SALUTE

#### ANNOUNCEMENTS

- Mayor has scheduled a workshop on Monday, October 10, at 5:00 p.m.

PUBLIC COMMENT PERIOD (For Items Not on the Agenda)

#### APPROVAL OF AGENDA

#### CONSENT AGENDA

1. Minutes of September 12, 2022, Regular Council Meeting
2. Payroll and Claims Packet Dated September 26, 2022
3. Set a public hearing for revenue sources and possible increase in property tax on October 24, 2022
4. Set a public hearing for preliminary budget on November 14, 2022
5. Set a public hearing for final budget on November 28, 2022

#### BUSINESS ITEMS

1. Amended and Restated Interlocal Agreement between Chelan County and City for cooperation associated with county road project No 726 for right-of-way negotiations
2. Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement with Nicholls Kovich Engineering for bridge load ratings on 4 City bridges
3. Discussion on Chapter 17.58.085 Livestock and Poultry

#### 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)**

MINUTES OF THE CASHMERE CITY COUNCIL MEETING  
MONDAY SEPTEMBER 12, 2022, AT CASHMERE CITY HALL – In Person and Digital

OPENING

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

The public can attend the council meeting in person, by phone, or by digital conference.

ATTENDANCE

	<u>Present</u>	<u>Not Present</u>
Mayor:	Jim Fletcher	
Council:	John Perry Chris Carlson Shela Pistorosi Jayne Stephenson Derrick Pratt	
Staff:	Kay Jones, Clerk-Treasurer	Steve Croci, Director of Operations Chuck Zimmerman, City Attorney Kate Schilling, City Attorney

ANNOUNCEMENTS

The Mayor reminded the Council of the 9:00 a.m. meeting tomorrow with Senator Hawkins at City Hall and workshops are scheduled for the next two council meetings.

PUBLIC COMMENTS

Eva Lorenz residing at 509 Cottage Avenue spoke to the council about revisiting the city code prohibiting chickens in Cashmere. She informed the council that over 60 people signed an informal petition on social media in favor of allowing chickens on small lots inside the city limits. Lorenz suggested modeling the code after the City of Ellensburg, allowing hens only and no rosters.

Some of the council members were supportive of allowing chickens and Councilor Pistorosi questioned how the new code would be enforced. Mayor Fletcher reminded the council that a public hearing would be required to amend the code.

APPROVAL OF AGENDA

MOVED by Councilor Pratt and seconded by Councilor Carlson to approve the agenda as provided. Motion carried unanimously.

CONSENT AGENDA

Minutes of August 8, 2022, Regular Council Meeting

August 22, 2022, Council Meeting Canceled

Payroll and Claims Packet Dated August 22, 2022

Claims Direct Pay and Check #42135 through #42153 totaling \$245,087.24

Payroll and Claims Packet Dated September 12, 2022

Claims Direct Pay and Check #42184 through #42202 totaling \$161,435.38  
Payroll Direct Deposit and Check #42158 through #42181 totaling \$93,840.51  
Manual Check #42155, 42156, 42157, 42182, 42183 not needing prior approval  
Replaced Check #41568 with Check #42154

Emergency Facilities & Land Use Agreement with USDA Forest Service

MOVED by Councilor Carlson and seconded by Councilor Perry to approve the items on the Consent Agenda. Motion carried unanimously.

AMENDMENT TO EXHIBIT C OF THE W&C OPERATIONS AND MAINTENANCE AGREEMENT REGARDING B&O TAXES

In the original contract the table in Exhibit C incorrectly had the Washington Business & Occupation Tax included in the Subtotal Costs. Including the taxes in the Subtotal Costs applies the Fixed Fee to the tax inappropriately. Properly applying the taxes reduces the first year (2022) annual contract cost by \$853.

MOVED by Councilor Stephenson and seconded by Councilor Carlson to approve the amendment to Exhibit C of the 2022 W&C Operations and Maintenance Agreement regarding B&O Taxes. Motion carried unanimously.

PROPOSED 2023 BUDGET FOR THE W&C OPERATIONS AND MAINTENANCE AGREEMENT

The first year Base Budget amount is a total of \$1,277,409 and the proposed 2023 Budget includes the following increases and adjustments; the area's CPI was 8.0%, all categories in the budget were adjusted by 8.0% and a portion of the residual management budget was reallocated to the chemical budget to reflect the actual spending expectations for 2023. The proposed budget for 2023 is \$1,381,106.

MOVED by Councilor Carlson and seconded by Councilor Pistoresi to approve the 2023 Budget for the W&C Operations and Maintenance Agreement. Motion carried unanimously.

2023 AGREEMENT FOR EMERGENCY MANAGEMENT SERVICES

The purpose of the Agreement is for Chelan County to provide services to Cashmere to develop a comprehensive emergency management plan and program and other emergency operational functions. The 2023 annual amount for Emergency Management Services is \$9,971.20. The new per capita rate used to calculate the 2023 Agreement for Emergency Management Services is \$3.04, and Cashmere's 2022 population (estimated by OFM) is 3280.

MOVED by Councilor Pratt and seconded by Councilor Carlson to approve the 2023 Agreement for Emergency Management Services. Motion carried unanimously.

AERIAL PARAGLIDER AGREEMENT

In May the Council approved an agreement for Aerial Paragliders to use Riverside Park for ground-based activities with insurance limits of no less than 5,000,000 each occurrence and \$5,000,000 general aggregate. Aerial Paragliders proposes insurance limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate. The proposed limits match the insurance requirements in the Rafters Agreement.

MOVED by Councilor Perry and seconded by Councilor Stephenson to approve the Aerial Paraglider Agreement amendment to the insurance language. Motion carried unanimously.

PROGRESS REPORTS

Clerk-Treasurer Kay Jones announced that the second half of the new water meters are scheduled to be arriving this month. The meters that have already been installed have been useful and the first 17 letters announcing possible leaks have been mailed out.

Director of Operations Steve Croci informed the Council of the new US Fish and Wildlife regulation that will impact the upgrades to Sunset Highway. Any stormwater runoff will need to be retained and cannot go directly into the river.

An agreement with the county is needed to help negotiate right-of-way to complete the project and meet the new regulations.

ADJOURNMENT

Mayor Fletcher adjourned the meeting at 6:38 p.m.

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James Fletcher, Mayor

Attest:

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Kay Jones, Clerk-Treasurer



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### **NOTICE OF PUBLIC HEARING ON CITY OF CASHMERE REVENUE SOURCES AND POSSIBLE INCREASE IN PROPERTY TAXES**

The Cashmere City Council will hold a public hearing on Monday, October 24, 2022 at 6:00 p.m. at the Cashmere City Hall on the City of Cashmere Revenue Sources and possible increase in Property Taxes. The public is invited to attend said hearing and make comment.

If you are unable to attend in person, please call City Hall or access the agenda on the City's website for login information. Written comments can be sent to Kay Jones, City Clerk-Treasurer at [kay@cityofcashmere.org](mailto:kay@cityofcashmere.org).

Kay Jones  
City Clerk-Treasurer  
CITY OF CASHMERE

**Please publish one time only on October 12, 2022**

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

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



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### **NOTICE OF PUBLIC HEARING ON CITY OF CASHMERE PRELIMINARY 2023 BUDGET**

The Cashmere City Council will hold a public hearing on Monday, November 14, 2022 at 6:00 p.m. at the Cashmere City Hall on the City of Cashmere Preliminary Budget for 2023. The public is invited to attend said hearing and make comment.

If you are unable to attend in person, please call City Hall or access the agenda on the City's website for login information. Written comments can be sent to Kay Jones, City Clerk-Treasurer at [kay@cityofcashmere.org](mailto:kay@cityofcashmere.org).

Kay Jones  
City Clerk-Treasurer  
CITY OF CASHMERE

**Please publish one time only on November 2, 2022**

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



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### **NOTICE OF PUBLIC HEARING ON CITY OF CASHMERE FINAL 2023 BUDGET**

The City of Cashmere Preliminary 2023 Budget has been filed with the City Clerk-Treasurer. The Cashmere City Council will hold a public hearing on the Final 2023 Budget for the City of Cashmere on Monday, November 28, 2022, at 6:00 p.m. at the Cashmere City Hall, 101 Woodring Street. Copies of the preliminary budget are available by November 19<sup>th</sup> at Cashmere City Hall, 101 Woodring Street, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday. The public is invited to attend said hearing and make comment.

If you are unable to attend in person, please call City Hall or access the agenda on the City's website for login information. Written comments can be sent to Kay Jones, City Clerk-Treasurer at [kay@cityofcashmere.org](mailto:kay@cityofcashmere.org).

Kay Jones  
City Clerk  
CITY OF CASHMERE

**Publish twice, November 2 and November 9**

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

# Staff Summary

**Date:** 9/21/2022

**To:** City Council

**From:** Steve Croci

**RE:** Amended Chelan County Inter-Local Agreement – Sunset Highway

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The amended and restated Inter-local Agreement with Chelan County for the Sunset Highway project is to address negotiations for right of way acquisition.

**Staff Recommendation:**

MOVE to approve the Amended and Restated Inter-local Agreement with Chelan County to design and construct improvements to Sunset Highway and authorize the Mayor to sign documents.

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**A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR CHELAN COUNTY, AMENDING AND RESTATING AN INTERLOCAL AGREEMENT WITH CITY OF CASHMERE TO PROVIDE SERVICES ASSOCIATED WITH COUNTY ROAD PROJECT NO. 726.**

**WHEREAS**, the Chelan County Board of Commissioners is vested with the authority to cooperate with other public agencies for the mutual advantage or benefit of the public as provided in RCW 39.34; and

**WHEREAS**, the Board of County Commissioners did establish policies and procedures for the performance of work by Chelan County Department of Public Works on behalf of other public agencies when it is in the public's interest by Resolution No. 1995-88; and

**WHEREAS**, Chelan County and the City of Cashmere are cooperatively engaged in the completion of improvements to Sunset Highway associated with the County Road Project 726, Goodwin Road Project (CRP726); and

**WHEREAS**, there are significant benefits for the County, the City and members of the public provided by the appropriate design and construction of the Improvements; and

**WHEREAS**, the timetable to acquire all necessary right-of-way interests prior to construction is condensed; and

**WHEREAS**, City of Cashmere lacks the resources internally to complete negotiation and acquisition prior to project critical deadlines; and

**WHEREAS**, Chelan County Department of Public Works does have the appropriate resources and expertise to complete negotiation and acquisition within the necessary timeframe; and

**WHEREAS**, the County and the City are interested in cooperating to facilitate the design, construction and funding of the Improvements to serve mutual interests of the County and the City; and

**WHEREAS**, previously both the County and the City executed an *"Interlocal Agreement Between – Chelan County and City of Cashmere"*, approved by City of Cashmere Mayor James Fletcher on July 30, 2020, and by the Board of County Commissioners on August 11, 2020 (the *"Original Agreement"*), and, which established the roles and tasks to be performed by each party; and

**WHEREAS**, the Original Agreement required the County to prepare right of way plans and all supporting documentation for the acquisition of necessary right of way, but made negotiation for acquisition of necessary right of way the responsibility of the City;

**NOW, THEREFORE, BE IT RESOLVED**, that:

In the best interest of the public and for the mutual benefit of Chelan County and City of Cashmere timely completing the necessary right of way acquisitions, the Board of Commissioners hereby APPROVE this Amended and Restated Interlocal Agreement Between – Chelan County and City of Cashmere For Cooperation in Association With County Road Project No. 726 (“Amended Agreement”), which is attached hereto as EXHIBIT A, and incorporated into this Resolution by reference, and this Amended Agreement, shall supersede the Original Agreement, as of the effective date of the Amended Agreement.

DATED at Wenatchee, Washington this \_\_\_ day of \_\_\_\_\_, 2022.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
KEVIN OVERBAY, Chairman

\_\_\_\_\_  
TIFFANY GERING, Commissioner

\_\_\_\_\_  
BOB BUGERT, Commissioner

ATTEST: CARLYE BAITY

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

## EXHIBIT A

**Return Address:**

Chelan County Public Works  
316 Washington Street, Suite 402  
Wenatchee, WA 98801

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of the warranty contained in the document itself.	
<b>Document Title:</b>	INTERLOCAL AGREEMENT FOR SUNSET HIGHWAY IMPROVEMENTS
<b>Grantor (s):</b>	CHELAN COUNTY
<b>Grantee(s):</b>	CITY OF CASHMERE
<b>Legal Description:</b>	N/A
<b>Assessor's Tax Parcel ID:</b>	N/A
Filed with the Auditor pursuant to RCW 39.34.040	

### **AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN CHELAN COUNTY AND CITY OF CASHMERE FOR COOPERATION ASSOCIATED WITH COUNTY ROAD PROJECT NO. 726.**

This Amended and Restated Interlocal Agreement Between Chelan County and City of Cashmere for Cooperation in Association with County Road Project No.726 ("Agreement") is entered into between Chelan County, a municipal corporation of the State of Washington and the City of Cashmere, a municipal corporation of the State of Washington, hereinafter referred to as "County" and "City" respectively. Collectively, the County and the City are referred to as the "Parties." This Agreement has been authorized by the legislative body of each jurisdiction pursuant to formal action as designated below:

Chelan County: Resolution No. 2022—\_\_\_\_\_

City: \_\_\_\_\_

- A. This Agreement is entered into pursuant to chapter 39.34 RCW for the purpose of amending and restating the *"Interlocal Agreement Between – Chelan County and City of Cashmere"* recorded with the Chelan County Auditor as Auditor's File No. 2522711 on August 20, 2020 (the "Original Agreement"). The Original Agreement provided for cooperative design and construction of improvements associated with the County Road Project No. 726 (CRP726). The Original Agreement is superseded by this Amended and Restated Agreement, as of the effective date of this Agreement.

B. The Parties continue to agree and acknowledge that:

- i. The City has needs related to improvements to Sunset Highway including but not limited to pavement improvements, illumination, access control, curb, gutter and sidewalks, and stormwater, facilities (Improvements) associated with the County Road Project No. 726, Goodwin Road Project (CRP726); and
- ii. There are significant benefits for the County, the City and members of the public provided by the appropriate design and construction of the Improvements; and
- iii. The County and the City are interested in cooperating to facilitate the design, construction and funding of the Improvements to serve mutual interests of the County and the City; and
- iv. The Parties desire to establish a procedure and standard terms and conditions for the performance of the scope of work for which the County will be the lead agency.

NOW, THEREFORE, in consideration for their mutual covenants, conditions and consideration, it is agreed between the County and the City as follows:

1. **DESIGN AND DESIGN APPROVAL:** Topographical surveying and design of the Improvements within the City limits will be completed by the County and reviewed by the City. Design of the illumination and irrigation facilities (City Facilities) will be completed by the City. The City will submit to the County, plans, specifications, cost estimates, and construction schedules of the City Facilities for review by the County. Upon approval of the design by the Parties, the County will incorporate the City Facilities design into the County's plans, specifications, cost estimates, and construction schedules. The Parties agree that the City's cost of the design Improvements to be paid to the County by the City shall be the full cost of the County's portion of the design within the City limits (approximately 1,215-feet of roadway), estimated to be \$130,000.00. This flat fee figure was arrived at by the Parties after an analysis of the estimated design costs of the total project, excluding the estimated design cost of the City's related portion of the project. The City shall make payment to the County as set forth in paragraph 6 herein.
2. **RIGHTS OF WAY:** The County will prepare right of way plans as well as descriptions and exhibits for needed easements and property acquisitions. Title reports, appraisals, and appraisal reviews will be obtained by the County. The City shall reimburse the County for its share of the right of way costs occurring in the City limits and shall make payment to the County as set forth in paragraph 6 herein. The Parties agree that the City's cost of the right of way Improvements to be paid to the County by the City shall be full cost of the right of way costs within the City limits (approximately 1,215-feet of roadway).
3. **PROPERTY ACQUISITION:** In the event the City requires right of way acquisition

to complete its portion of the Improvements, the County shall negotiate the terms of acquisition on behalf of the City in accordance with State and Federal regulation, and the City's approved WSDOT Right of Way Procedures, attached hereto as SCHEDULE 1, and incorporated into this Agreement by reference. The county's approved representative shall be present for all communication and negotiation with the property owners. The City shall have final approval over all acquisitions. Preparation of any contracts, deeds, easements, or other transfer or closing documents necessary to complete acquisition shall be the sole responsibility of the City. All payments or consideration for acquisition shall be paid directly by the City to the landowner. The County shall not be responsible for the transfer of funds arising from acquisition of right of way within the city limits. THE CITY ACKNOWLEDGES AND AGREES THAT THE COUNTY HAS MADE NO GUARANTEES OR ASSURANCES, AND HAS OTHERWISE MADE NO STATEMENTS AS TO THE OUTCOME OF FUTURE NEGOTIATIONS. The City and County shall establish progress milestones and associated deadlines for the negotiations and property acquisition compatible with the right of way plans and construction deadlines. THE CITY ACKNOWLEDGES AND AGREES THAT THE COUNTY SHALL NOT BE HELD LIABLE FOR ANY PROJECT COSTS OR DELAYS ARISING FROM FAILURE TO ACQUIRE RIGHT OF WAY WITHIN THE NECESSARY TIMEFRAMES. The City is solely responsible for the timely acquisition of necessary right of way and nothing in this Agreement is intended to shift that responsibility to the County. The County shall not be responsible for any condemnation proceedings which may be necessary in the event that negotiations are unsuccessful, however County acknowledges and agrees that those County employees with factual knowledge of the negotiations may need to participate in any resulting proceeding. The City shall submit copies of associated right of way documentation, prepared in the coordinated process of right of way acquisition, to the County for their records. Upon request by the City, the County shall submit copies of associated right of way documentation prepared by the County for purposes or arising from the negotiations for right of way within city limits. The City shall reimburse the County for its costs arising from the County's negotiations on behalf of the City and shall make payment to the County as set forth in paragraph 6 herein.

4. **ENVIRONMENTAL PERMITTING:** The County will complete and obtain required environmental documents and permitting for this project. The City shall reimburse the County for its prorated share of the environmental costs. These costs are a part of the Design and Design Approval costs.
5. **CONSTRUCTION:** The Parties acknowledge and agree that the purpose of this Amended Agreement is to establish the rights and responsibilities of the Parties through the Design and Property Acquisition phases of the Project, not Construction. The Parties contemplate a Second Amended Agreement with the

terms for the Bid and Construction phases to be executed by the Parties prior to Bid Advertisement.

6. **FUNDING:** The City shall pay to the County its full prorated costs of design, environmental, and right of way acquisition within 30 days, of receipt of an invoice from the County relating to the work represented by the invoice that has been completed. Any payment past due shall accrue interest at the rate of twelve (12%) percent per annum until the outstanding balance of the past due principal and interest is paid.
7. **OWNERSHIP:** Upon completion of the Improvements and final approval of construction by the Parties, all water and sewer Improvements shall be owned and maintained by the City. The City will be required to obtain a franchise agreement with the County to maintain the water and sewer Improvements located outside of the City limits. All other Improvements outside of the City limits shall be owned and maintained by the County.
8. **PARTIES:** There are no additional parties intended to be benefited under this Agreement. There are no other agreements or representation, written or oral, concerning the subject matter of this Agreement.
9. **VENUE:** This Agreement shall be governed for all purposes by the law of the State of Washington. The venue for any action arising under this Agreement shall be Chelan County Superior Court except as set forth in paragraph 25 herein, DISPUTE RESOLUTION.
10. **MUTUAL COOPERATION:** The Parties agree to perform any further acts and to execute and deliver any further documents as may be reasonably necessary to fully effectuate the provisions of this Agreement.
11. **DEFAULT:** Neither Party shall be liable nor deemed to be in default for any delay or failure in performance under the Agreement or other interruption of service or employment resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, terrorism, bomb threats, computer virus, epidemic, power outage, acts of war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery, or supplies, vandalism, strikes or other work interruptions by the employees of any Party, or any other cause beyond the reasonable control of the Party affected thereby. However, each Party shall utilize its best good faith efforts to perform under this Agreement in the event of any such occurrence or circumstance.
12. **ENFORCEABILITY:** This Agreement will be enforced to the fullest extent permitted by applicable law. If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable by a court or other governmental authority of competent jurisdiction, such as invalidity, illegality or unenforceability shall not affect any other

terms or provisions of this Agreement, which shall remain in full force and affect.

13. **EFFECTIVE DATE & DURATION:** This Agreement will take effect on the date of its recording with the Chelan County Auditor's Office, as provided by RCW 39.34.040. The Parties have caused duplicate originals of this Agreement to be executed on the date of the last signature. This Agreement will remain in effect until terminated by a Party pursuant to paragraph 23 herein, or until all obligations established herein are completed at which time the Agreement will terminate automatically upon the last occurrence of: the Completion Date of the construction contract, the final approval of the Improvements by both Parties, and the final payment by City to County pursuant to paragraph 6 herein.
14. **NO LEGAL/ADMINISTRATIVE ENTITY CREATED:** No separate legal or administrative entity is created by or pursuant to this Agreement.
15. **INDEMNIFICATION/DEFENSE/HOLD HARMLESS:**
  - a. The County will protect, defend, indemnify, and save harmless the City, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages arising out of or in any way resulting from the actions of the County related to the performance of this Agreement by the County, except for costs, claims, judgments, and awards of damage for injuries or damages arising out of or in any way resulting from negligent acts or omissions of the City.
  - b. The City will protect, defend, indemnify, and save harmless the County, its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages arising out of or in any way resulting from the actions of the City related to the performance of this Agreement by the City, except for costs, claims, judgments, and awards of damage for injuries or damages arising out of or in any way resulting from negligent acts or omissions of the County.
16. **NO ASSIGNMENT:** The Parties shall not assign this Agreement or any interest, obligation or duty herein without the express written consent of the other Party.
17. **NOTICES:** All notices and payments hereunder shall be sent or delivered to the following respective address:

CHELAN COUNTY PUBLIC WORKS  
Attention: Administrative  
Coordinator  
316 Washington Street, Suite 402  
Wenatchee, WA 98801  
509-667-6415

CITY OF CASHMERE

Attention: City Clerk  
101 Woodring Street  
Cashmere, WA 98815

or to such other respective addresses as either Party may hereafter designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to be given on the second business day following the date of mailing. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

18. **AUTHORITY:** Both Parties represent that by appropriate action by their respective governing bodies, they are authorized to enter into this Agreement and have financial approval for payments specific herein.
19. **NON-DISCRIMINATION POLICY:** The County and the City shall not discriminate in the performance of this Agreement based on race, color, national origin, sex, sexual orientation, age, religion, creed, marital status, military or veteran status, the presence of any physical, mental or sensory disability, or any other status protected by law.
20. **EMPLOYEE STATUS:** Employees of the County are and will remain employees of the County. City employees are and will remain City employees.
21. **AMENDMENT:** The County and the City may mutually amend this Agreement. Such amendments shall not be binding unless the amendments are in writing and are signed by personnel authorized to bind the County and the City.
22. **INTEGRATION CLAUSE:** This Agreement contains the entire agreement of the Parties with respect to the Goodwin Road Project to which it pertains. There are no promises, terms, conditions or obligations other than those contained in this Agreement. This Agreement supersedes all previous communications, representations or agreements either oral or written, between the Parties.
23. **TERMINATION CLAUSE:** Either Party may terminate this Agreement by giving the other Party at least thirty (30) days' advance written notice. This Agreement may also be terminated at any time by mutual agreement, in writing, between the Parties. Upon termination by the Parties, pursuant to this paragraph 23, each Party shall be responsible for submitting to the other itemized invoices for the work performed prior to termination. Each Party shall be responsible for its funding and payment obligations specifically provided for in this Agreement, and when not specified, the Party's proportional costs, including but not limited to the proportional share of the costs incurred or obligated or any additional costs arising from the decision to terminate the project.
24. **PROPERTY/EQUIPMENT/AND MAINTENANCE:** Upon termination of this Agreement, all property purchased by the County in furtherance of this Agreement shall remain property of the County and all property purchased by the City shall remain property



of the City. All property shall be returned to its owner upon termination of this Agreement.

25. **DISPUTE RESOLUTION:** In the even that a dispute arises under this agreement which cannot be resolved through negotiation, the Parties agree to resolve such dispute in the following manner: The County and the City will each individually appoint one person to a Dispute Board and jointly appoint a third person. The Dispute Board will evaluate the dispute and issue a determination. The determination of the Dispute Board will be final and binding on the Parties thereto. The County shall pay the costs of the person it appoints to the Dispute Board and the City shall pay the costs of the person it appoints to the Dispute Board. The Parties shall equally share the costs of the third person appointed to the Dispute Board and all other Dispute Board costs and fees.
26. **FILING:** After adoption by the Parties, this Agreement will be recorded with the Chelan County Auditor's Office.

**CITY OF CASHMERE**

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
JAMES FLETCHER, Mayor

\_\_\_\_\_  
KEVIN OVERBAY, Chairman

\_\_\_\_\_  
TIFFANY GERING, Commissioner

\_\_\_\_\_  
BOB BUGERT, Commissioner

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022

**ATTEST:**


**ATTEST:**

\_\_\_\_\_  
KAY JONES, City Clerk — Treasurer

\_\_\_\_\_  
CARLYE BAITY, Clerk of the Board

**Approved as to form:**

**Approved as to form:**

  
\_\_\_\_\_  
CHARLES D. ZIMMERMAN  
City Attorney

\_\_\_\_\_  
KAMMERON N. TODD  
Deputy Prosecuting Attorney

Dated: September 21, 2022

Dated: \_\_\_\_\_

# Staff Summary

**Date:** 9/21/2022

**To:** City Council

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

**RE: Agreement with Nicholls and Kovich Engineering – Bridge Load Rating**

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The Federal Highway Administration (FHWA) provided requirements to load rate bridges contained in the National Bridge Inventory (NBI) for the Specialized Hauling Vehicles (SHV). To comply with the requirements, as well as the National Bridge Inspection Standards (NBIS), the bridges in Cashmere must be evaluated by December 31, 2022.

A request for qualification was posted on the MRSC Consultant Roster. Four firms submitted a statement of qualifications. The review process identified Nicholls and Kovich Engineering as the firm best suited to address the need. The estimated cost is \$7,255.00.

**Staff Recommendation:**

MOVE to approve the agreement with Nicholls and Kovich Engineering and authorize the Mayor to sign 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>Nicholls Kovich Engineering, PLLC</b>	
Address <b>PO Box 1050, Veradale, WA 99037</b>	Federal Aid Number
UBI Number <b>603 380 206</b>	Federal TIN <b>46-5425573</b>
Execution Date	Completion Date <b>12/31/2022</b>
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Project Title <b>City of Cashmere SHV Bridge Load Ratings</b>	
Description of Work Perform SHV bridge load ratings for 4 City of Cashmere bridges.	
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input checked="" 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 type="checkbox"/> No SBE Participation
Maximum Amount Payable: <b>\$7255.00</b>	

## Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	<del>DBE Participation</del>
Exhibit C	<del>Preparation and Delivery of Electronic Engineering and Other Data</del>
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Exhibit E	<del>Sub-consultant Cost Computations</del>
Exhibit F	<del>Title VI Assurances</del>
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THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Cashmere, hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

### **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

### **II. General Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

### **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

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 absents of a mandatory DBE goal, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall develop a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

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.

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, Director of Operations  
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: Susan M. Kovich, PE  
Agency: Nicholls Kovich Engineering, PLLC  
Address: PO Box 1050  
City: Veradale State: WA Zip: 99037  
Email: [susan@nichollskovich.com](mailto:susan@nichollskovich.com)  
Phone: 509-921-6747  
Facsimile: 509-242-8777

#### 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.

## V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fee.

- 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.

## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:



## VIII. Nondiscrimination

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.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (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 negligence of, or the breach of any obligation under this AGREEMENT 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; provided that nothing herein shall require a CONSULTANT

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.

## Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Steve Croci, Director of Operations  
Agency: City of Cashmere  
Address: 101 Woodring Street  
City: Cashmere State: WA Zip: 98815  
Email: steve@cityofcashmere.org  
Phone: 509-782-3513  
Facsimile: 509-782-2840

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **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.

## **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

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.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

*Susan M. Kovech*

*9/21/2022*

Signature

Date

Signature

Date

*Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.*



**Exhibit A**  
**Scope of Work**

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Project No. \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF WORK**

**PROJECT:** City of Cashmere – SHV Bridge Load Ratings  
**CONSULTANT:** Nicholls Kovich Engineering, PLLC

**PROJECT DESCRIPTION:**

The scope of work to be performed by the CONSULTANT consists of: Specialized Hauling Vehicles (SHVs) Load Ratings due in 2022.

**SCOPE OF WORK – LOAD RATINGS:**

Load Ratings for Specialized Hauling Vehicles shall:

1. Provide Inventory and Operating ratings, plus allowable loads for legal vehicles (including NRL and SHV's) and WSDOT overloads.
2. Be in accordance with the latest WSDOT Bridge Design Manual, WSDOT Bridge Inspection Manual and AASHTO Manual for Bridge Evaluation.
3. Provide the necessary WSBIS coding, plus posting recommendations, if applicable.
4. Be stamped by a registered Professional Engineer in the State of Washington.

The following bridges (due by 12/31/2022) are to be rated under this Agreement:

- **Cottage Avenue (308A)**
- **Mission Creek 1 (311A)**
- **Mission Cr-Sunset Hwy (309)**
- **Pioneer Avenue Bridge (Cashmere1)**

**Assumptions:**

- Chelan County will update the WSBIS (Bridgeworks) application with the new load rating information.

**Deliverables:**

1. One hard copy of each load rating report shall include a stamped summary sheet and load rating calculations.
2. Electronic signed copy (PDF) of each load rating summary sheet.


**ITEMS BY CITY:**

- Provide necessary bridge information, bridge plans, or any other pertinent bridge data, if not in BridgeWorks.

**Exhibit D**  
**Prime Consultant Cost Computations**

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EXHIBIT D  
Estimate

PROJECT NAME: CITY OF CASHMERE - SHV BRIDGE LOAD RATINGS						
SCOPE OF WORK ITEM	TIME IN HOURS					Price Per Bridge
	Principal Eng./P.M.	Senior Engineer	Project Engineer	Project Engineer	Associate Engineer	
<b>SHV LOAD RATINGS - CASHMERE</b>						
<i>Bridge Name/Type</i>						
Mission Cr/Sunset Hwy - Prestressed Concrete Deck Girder - Single Span	4		8		2	\$ 1,607.05
Mission Creek 1 - Prestressed Concrete Deck Girder - Single Span	4		8		2	\$ 1,607.05
Pioneer Ave - Prestressed Concrete Deck Girder - Single Span	4		8		2	\$ 1,607.05
Cottage Ave - Prestressed Concrete Girder with CIP Deck - Multi-span	5.5		14		2	\$ 2,433.36
						\$ 7,254.51
<b>Hours</b>	17.5	0	38	0	8	
<b>RATE per HOUR</b>	\$ 161.27	\$ 107.51	\$ 97.40	\$ 94.07	\$ 91.39	
<b>NICHOLLS KOVICH ENGINEERING - Labor: \$ 7,255.00</b>						
<b>TOTAL ESTIMATE - CASHMERE: \$ 7,255.00</b>						
<b>HOURLY FEE BREAKDOWN</b>						
	Principal Eng./P.M.	Senior Engineer	Project Engineer	Project Engineer	Associate Engineer	
<b>Basic wage per hour</b>	\$ 60.00	\$ 40.00	\$ 36.24	\$ 35.00	\$ 34.00	
<b>Overhead percentage 138.78%</b>	\$ 83.27	\$ 55.51	\$ 50.29	\$ 48.57	\$ 47.19	
<b>Fixed Fee @ 30%</b>	\$ 18.00	\$ 12.00	\$ 10.87	\$ 10.50	\$ 10.20	
<b>Hourly rate</b>	\$ 161.27	\$ 107.51	\$ 97.40	\$ 94.07	\$ 91.39	

**17.58.085 Livestock and poultry.**

A. Compliance Required. It is unlawful for any person or persons to keep or maintain any livestock or poultry within the city limits except as provided in this chapter. For the purposes of this chapter, the terms "livestock" and "poultry" shall be as defined in Chapter 17.08 CMC, Definitions.

B. Livestock and Poultry – Permitted Where. Livestock and poultry are permitted within different zoning districts as determined by this title, provided the property ownership is at least one contiguous acre in size or greater and the other provisions of this chapter are met.

C. Criteria. The following minimum criteria shall be met where keeping of livestock and poultry are permitted by the zoning district, and provided the property ownership is at least one contiguous acre in size or greater:

1. The minimum pasture area maintained for each animal shall be as listed below:

a. One-half acre per each horse, pony, mule, cow and/or other similar size animal, except animals under one year of age shall be exempt from this requirement;

b. One-quarter acre per each sheep, goat or other similar size animal, except animals under one year of age shall be exempt from this requirement;

c. Twelve poultry per acre. Poultry may include any combination of chickens, ducks, geese, rabbits and similar type animals, except poultry under three months of age are exempt from this requirement;

d. One acre per each swine. When located within an urban growth area no more than three swine are permitted per property ownership. Swine under three months of age are exempt.

Example: The minimum land area required for one sheep and one horse shall be one acre, with three-quarters of an acre maintained in pasture as described below.

2. The property shall be maintained in a clean, sanitary condition so as to be free from offensive odors, fly breeding, dust and general nuisances and shall be in compliance with health district regulations.

3. All livestock and poultry shall be kept in enclosures so constructed and maintained as to prevent the livestock from breaking through, out, or over the same and roaming at large through the city.

4. Adequate measures shall be taken to properly dispose of animal waste. Accumulations of animal waste shall be prohibited from being stored closer than 100 feet from any off-premises dwelling and/or any domestic or irrigation wells, and all accumulations of manure or refuse shall not be stored in excess of one week. Accumulated waste shall be prohibited within 200 feet of any domestic or irrigation well. Furthermore, all animals kept within the city shall be kept in a humane fashion and shall not create a noxious, foul or offensive condition.

5. Barns, shelters or other buildings or structures for the keeping or feeding of cattle, horses, goats, sheep, poultry or swine or other similar shelters for animals or birds shall be located a minimum of 100 feet from any off-premises residential dwelling.

6. Pastures are defined as that area which is enclosed within a perimeter fence, and shall not include that portion of the property used for residential purposes. Pasture areas shall be maintained with a permanent, uniform vegetative top cover and shall be kept free of noxious weeds.

7. Any future division of property must comply with the minimum standards above. The minimum pasture area and condition requirements must be met by each additional individual lot or parcel, including the original parcel of record, in order to maintain livestock or poultry on the property.

D. No person shall keep or maintain any wild, exotic, or nondomesticated animal within the corporate city limits. No exotic animals are allowed within an urban growth area without first obtaining a conditional use permit. The applicant shall submit the following facts:

1. The exotic or nondomesticated animals, at the location proposed, will not jeopardize, endanger, or otherwise constitute a menace to the public health or safety;
2. The proposed site is adequate in size and shape to accommodate the type of animal for which the permit is requested without harm to the animals or material detrimental to the use, enjoyment or valuation of the property of other persons located in the vicinity of the site; and
3. In no case shall a person have more than one poultry size or shape exotic animal per lot or parcel less than one acre. If greater than one acre, one exotic animal per acre.

All exotic animals shall comply with local, state and federal regulations. (Ord. 1196 § 3 (Exh. C), 2011; Ord. 1138 § 1 (Exh. A), 2008; Ord. 1097 § 1, 2007).