



City Council Study Session Agenda
Virtual Platform
August 18, 2020 at 5:00 p.m.

A. Call to Order

- Pledge of Allegiance

B. Study Agenda

1. 2021 Budget Work Session – Presented by Finance Director Aaron BeMiller
2. 2020 Debt Refunding – Presented by Finance Director Aaron BeMiller

C. Adjourn

Shelton City Council
Meeting Agenda
August 18, 2020 at 6:00 p.m.
Virtual Platform

A. Call to Order

- Pledge of Allegiance
- Roll Call
- Late Changes to the Agenda

B. Consent Agenda (Action)

1. Vouchers numbered 102720 through 102754 in the amount of \$36,798.44
2. Voucher numbered 102769 and numbered 102791 through 102829 in the amount of \$137,814.39
3. Mason County Historical Society Museum 2nd Quarter LTAC Report – Written by Director Liz Arbaugh
4. Shelton-Mason County Chamber of Commerce 2nd Quarter LTAC Report – Written by President/CEO Heidi McCutcheon
5. LTAC Reappointment Letters

C. Presentations

1. Swearing-in & Promotion of Police Officers (via video)

D. Business Agenda (Study/No Action/Public Comment Taken)

1. 2020 Residential Paving – Presented by City Engineer Ken Gill
2. 2020 Chip Seal – Presented by City Engineer Ken Gill

E. Action Agenda (Action/Public Comment Taken)

1. Shoreline Master Program Periodic Review Grant – Presented by Senior Planner Jason Dose
2. Resolution No. 1166-0820 Purchase and Sale Agreement for Simpson Properties – Presented by City Manager Jeff Niten

F. Administration Reports

1. City Manager Report

G. Announcement of Next Meeting – September 1, 2020 at 6:00 p.m.

H. Adjourn

Special Note for Public Participation

*The meeting can be viewed at: masonwebtv.com
The public can provide comments via email or telephone.
Email: jeff.niten@sheltonwa.gov
Telephone: (360) 432-5105
Your comments will be relayed directly to the Council.*



2020 Looking Ahead

(Items and dates are subject to change)

Tues. 9/1 5:00 p.m.	Special Meeting Study Session	Troy Nichols – Legislative Priorities Water Meter AMI Project Update	Packet Items Due: Fri. 8/21 – 5:00 p.m.
Tues. 9/1 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes Presentations <ul style="list-style-type: none"> • LEAN Process Business Agenda <ul style="list-style-type: none"> • Ordinance No. 1950-0320 Budget Amendment for 2020 • Master Franchise Agreement – Hood Canal Communications • Franchise Agreement – PUD #3 • Franchise Agreement - Mason County • Franchise Agreement – Comcast Action Agenda <ul style="list-style-type: none"> • 2020 Residential Paving • 2020 Chip Seal Administration Report <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 8/21 – 5:00 p.m.
Tues. 9/1 @ end of reg. mtg.	Special Meeting	Executive Session To discuss with legal counsel litigation or potential litigation.	N/A
Tues. 9/15 5:00 p.m.	Special Meeting	2021 Budget Work Session	Packet Items Due: Fri. 9/4 – 5:00 p.m.
Tues. 9/15 5:50 p.m.	Regular SMPD Meeting	Consent Agenda <ul style="list-style-type: none"> • Vouchers/Meeting Minutes Business Agenda <ul style="list-style-type: none"> • Action Agenda <ul style="list-style-type: none"> • Administration Report <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 9/4 – 5:00 p.m.
Tues. 9/15 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes Presentations <ul style="list-style-type: none"> • PW Capital Improvement Program Business Agenda <ul style="list-style-type: none"> • Ordinance No. 1955-0820 2020 Refunding Debt Action Agenda <ul style="list-style-type: none"> • Ordinance No. 1950-0320 Budget Amendment for 2020 • Master Franchise Agreement – Hood Canal 	Packet Items Due: Fri. 9/4 – 5:00 p.m.

		<p>Communications</p> <ul style="list-style-type: none"> • Franchise Agreement – PUD #3 • Franchise Agreement - Mason County • Franchise Agreement – Comcast <p>Administration Report</p> <ul style="list-style-type: none"> • 	
Tues. 10/6 6:00 p.m.	Regular Meeting	<p>Consent Agenda</p> <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes <p>Presentations</p> <ul style="list-style-type: none"> • <p>Business Agenda</p> <ul style="list-style-type: none"> • LTAC Grant Recommendations <p>Action Agenda</p> <ul style="list-style-type: none"> • Ordinance No. 1955-0820 2020 Refunding Debt <p>Administration Report</p> <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 9/25 – 5:00 p.m.
Tues. 10/20 6:00 p.m.	Regular Meeting	<p>Consent Agenda</p> <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes <p>Presentations</p> <ul style="list-style-type: none"> • <p>Business Agenda</p> <ul style="list-style-type: none"> • Public Hearing – Consideration of the 2021 Ad Valorem (Property) Tax Levy • Public Hearing – 2021 Preliminary Budget <p>Action Agenda</p> <ul style="list-style-type: none"> • LTAC Grant Recommendations <p>Administration Report</p> <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 10/9 – 5:00 p.m.
Tues. 11/3 6:00 p.m.	Regular Meeting	<p>Consent Agenda</p> <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes <p>Presentations</p> <ul style="list-style-type: none"> • <p>Business Agenda</p> <ul style="list-style-type: none"> • <p>Action Agenda</p> <ul style="list-style-type: none"> • <p>Administration Report</p> <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 10/23 – 5:00 p.m.
Tues. 11/17 6:00 p.m.	Regular Meeting	<p>Consent Agenda</p> <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes <p>Presentations</p> <ul style="list-style-type: none"> • <p>Business Agenda</p> <ul style="list-style-type: none"> • <p>Action Agenda</p> <ul style="list-style-type: none"> • Public Hearing – Consideration of the 2021 Ad Valorem (Property) Tax Levy • Public Hearing – 2021 Preliminary Budget <p>Administration Report</p> <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 11/6 – 5:00 p.m.

Tues. 12/1 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes Presentations <ul style="list-style-type: none"> • Business Agenda <ul style="list-style-type: none"> • Action Agenda <ul style="list-style-type: none"> • 2021 Final Budget Administration Report <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 11/20 – 5:00 p.m.
Tues. 12/15 5:50 p.m.	Regular SMPD Meeting	Consent Agenda <ul style="list-style-type: none"> • Vouchers/Meeting Minutes Business Agenda <ul style="list-style-type: none"> • Action Agenda <ul style="list-style-type: none"> • Administration Report <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 12/4 – 5:00 p.m.
Tues. 12/15 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> • Vouchers/Payroll Warrants/Meeting Minutes Presentations <ul style="list-style-type: none"> • Business Agenda <ul style="list-style-type: none"> • Action Agenda <ul style="list-style-type: none"> • Administration Report <ul style="list-style-type: none"> • 	Packet Items Due: Fri. 12/4 – 5:00 p.m.

Other – TBD

- UGA/Annexation Policy (Water/Sewer Extensions)
- Outside City Water/Sewer Extensions
- More Standing Committees by the Council

VOUCHER APPROVAL

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein vouchers numbered 102720 through number 102754 in the amount of \$36,798.44 that the claims are just, due and unpaid obligations against the City of Shelton, and that I am authorized to authenticate and certify said claims.

Signed this 30th of July, 2020.



Director of Financial Services

We, the undersigned members of the City Council of Shelton, Washington, do hereby certify that the vouchers contained herein are approved for payment.

Signed this _____ of _____, 2020.

Mayor Kevin Dorcy

Deputy Mayor Deidre Peterson

Councilmember James Boad

Councilmember Megan Fiess

Councilmember Kathy McDowell

Councilmember Eric Onisko

Councilmember Joe Schmit

VOUCHER APPROVAL

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein vouchers number 102769 and numbered 102791 through number 102829 in the total amount of \$137,814.39 that the claims are just, due and unpaid obligations against the City of Shelton, and that I am authorized to authenticate and certify said claims.

Signed this 10th of August, 2020.

for Oliver Schnitzler Accounting Manager
Director of Financial Services

We, the undersigned members of the City Council of Shelton, Washington, do hereby certify that the vouchers contained herein are approved for payment.

Signed this _____ of _____, 2020.

Mayor Kevin Dorcy

Deputy Mayor Deidre Peterson

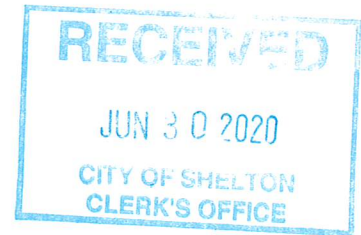
Councilmember James Boad

Councilmember Megan Fiess

Councilmember Kathy McDowell

Councilmember Eric Onisko

Councilmember Joe Schmit



Mayor Kevin Dorcy

6/24/2020

525 W Cota St.

Shelton, WA 9584

Re: Hotel/Motel Advisory Board

Dear Mayor Dorcy:

Please accept this letter as my intent to serve another year on the Hotel/Motel Advisory Board.

Thank you.

Warmest Regards,

A handwritten signature in black ink, appearing to read "David P. Dally". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David P. Dally

321 SE McComb Way

Shelton, WA 98584

360.791.8933

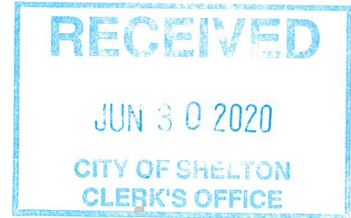
"DavidD_TWI@msn.com"

6-24-2020

Honorable Kevin Dorcy

Mayor

City of Shelton



Mr. Dorcy

I am writing this letter to request your consideration for appointment to the Shelton Hotel/Motel Tax Advisory Committee. I understand that my appointment for 2019 has expired. I would very much like to continue to serve on the committee. Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Duane Wilson", with a stylized flourish at the end.

Duane Wilson



2nd Quarter 2020 Visitor Information Services Report
August 5, 2020

- The Mason County Historical Society Museum was closed by Governor Inslee's "Stay Home, Stay Safe" proclamation from March 13 until July 7, 2020.
 - During the closure, 2 staff members worked on average a combined 18 hours a week. Staff worked with the public to answer research requests by email and by phone. We fielded approximately 3-4 questions per week.
 - Jan Parker wrote her regular column in the Shelton-Mason County Journal about local history.
 - Reopening plans were formulated based on advice from the Washington State Historical Society, the Washington Museum Association and the American Alliance of Museums.
 - The museum continued to engage the community through our Face Book page, where we currently have over 3,000 followers.
 - The museum sold history books about Shelton and Mason County through our website, averaging about 50% of what was sold during this time in 2019.
 - Staff undertook the reorganization of exhibits to better allow social distancing within the museum, and to improve exhibits. This is an ongoing project.
 - The 20th Annual Historical Society Car Show, usually held in downtown Shelton, was cancelled due to the ban on large gatherings, resulting in a loss of approximately \$15,000 for the museum.
 - The museum received a grant for operations from Humanities Washington funded by the federal CARES Act for \$5000.
- .
- **The Mason County Historical Society thanks the City of Shelton for its continued support.**

FACEBOOK

At the end of 2Q, our Facebook page fans increased to over 3,200 and continues to be an avenue for continuously sharing business news, community events, and providing information on hot topics. During 2Q, our Facebook page attracted 204,941 unique users. The top post for 2Q was a news announcement that Mason County was approved for Phase Two Reopening with 34,648 people reached and 10,333 engagements. The next most popular post was a follow-up news alert announcing Phase Three Reopening in Mason County with 11,842 people reached and 2,611 engagements. A new Facebook group titled "Mason County Take-out & Delivery Options" was created to engage area residents and that page has over 3,200 followers.

Shelton-Mason County Chamber of Commerce
Published by Heidi Brotche McCutcheon [?] · May 23 ·

Effective Immediately! Mason County has been approved to move into Phase Two Reopening. A huge shout out to Commissioner Sharon Trask, Commissioner Kevin Shutty, and Commissioner Randy Neatherlin for their hard work and tenacity in seeing this through (again). We appreciate all that you're doing for our community.

Learn more here: https://masonchamber.com/mason-county-approved-for-phase-t-...



34,648
People Reached


10,333
Engagements

[Boost Post](#)

228 50 Comments 355 Shares

Shelton-Mason County Chamber of Commerce
Published by Heidi Brotche McCutcheon [?] · June 19 at 8:50 AM ·

It's official! Mason County has been approved to move into Phase Three Reopening, effective on Monday, June 22. Here's a quick video created by The Bellingham Herald showing what that means: <https://www.bellinghamherald.com/.../co.../article243308701.html>



11,842
People Reached

2,611
Engagements

[Boost Post](#)

64 5 Comments 96 Shares

REACH

Shelton, WA	Olympia, WA	Belfair, WA	Union, WA	Lacey, WA	Port Orchard, WA
133,484	21,979	8,113	7,981	5,551	3,941
Page	Total Page Likes	From Last Week	Posts This Week	Engagement This Week	
1  Explore Hood Canal	39.5K	▲0.1%	11	10.7K	
2  Thurston County Chamber	3.8K	▲0.1%	23	930	
YOU 3  Shelton-Mason County ...	3.2K	▲0.2%	13	1.9K	
Keep up with the Pages you watch. Get More Likes					
4  Olympic Peninsula Gate...	3.2K	0%	2	20	
5  Bremerton Chamber of ...	3K	▼0.1%	0	15	
6  Tillamook Area Chambe...	2.6K	▲0.1%	3	231	

VISITOR COUNTS

During the second quarter of 2020, Washington's *Stay Home, Stay Healthy* order was extended through May 31; however, a statewide Phased Reopening Approach allowed the Chamber office to reopen on May 5. The Hoodspout Visitor Information Center reopened on June 18 but only three of our regular volunteer staff opted to return to work. The flat or reduced visitor traffic during this period reflects the impact of required closures.

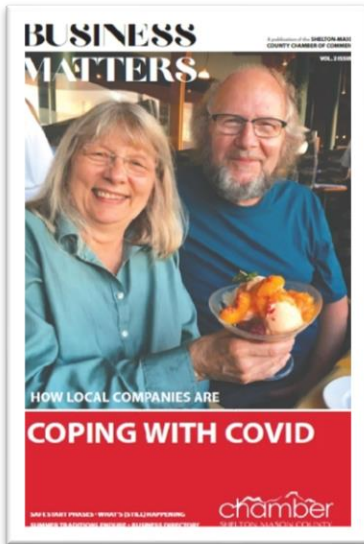
	Chamber Office		Hoodspout		Phone Calls		Totals		Total Change	
	2019	2020	2019	2020	2019	2020	2019	2020	#	%
April	161	0	768	0	191	132	1,185	132	1,053	11.1%
May	215	3	1,587	0	195	113	2,044	116	1,928	5.7%
June	289	34	2,235	470	229	227	2,843	731	2,112	25.7%
Q2 total	665	37	4,590	470	615	472	6,072	979	-5,093	16.1%

WEBSITE AND CALENDAR

During 2Q, the Chamber's new website traffic was significant. The site itself captured 524,136 hits with a total of 168,163 unique page visits. A web page specific to Phase 2 Reopening Approval was clicked by 2,566 visitors and a page dedicated to area restaurant service updates was the second most popular page.

BUSINESS MATTERS

The Chamber board agreed to publish monthly issues of *Business Matters* during summer 2020 instead of its larger quarterly version to ensure the content was timely and relevant at time of publication during COVID-19 restrictions. The print version is mailed to approximately 24,000 as an insert within the Shelton-Mason County Journal to all newspaper subscribers, Chamber members, and some alternate zip codes. Copies of *Business Matters* are also distributed and placed in lobbies and waiting areas of area businesses, information centers, convention bureaus, and the Chamber office itself.



The purpose of *Business Matters* is to convey the Chamber's role and reflect its activity in the community. Space within every issue is reserved for communicating local activities scene and heard in the business community as well as news tidbits and public interest pieces about Mason County. A complete Chamber member directory is also published in each edition.

Content in the June 2020 issue included a forward from both the board president and director emphasizing the importance, ability, and expertise of the Chamber to support the local business community. The feature article profiled four local business owners who shared their personal account of coping with COVID in their own words. A section explaining each of the four reopening phases was also included.

Disclaimer: Lodging Tax funds are not used for this publication.



Shelton PD Swearing-In/Promotions Ceremony

<https://www.youtube.com/watch?v=Oelq1volJQQ&feature=youtu.be>

On Thursday, July 30, a swearing-in ceremony was held at the Civic Center for two new officers and two promotions for the Shelton Police Department. Officers Samantha Ortona and Kanika Uch are new hires for the Department. Officer Chris Downs was promoted to Police Sergeant, and Officer Chris Kostad was promoted to Police Lieutenant.



CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item D1)

Touch Date: 07/21/20
Brief Date: 08/18/20
Action Date: 09/01/20

Department: Public Works
Presented By: Jay Harris

APPROVED FOR COUNCIL PACKET:

Action Requested:

ROUTE TO:

REVIEWED:

PROGRAM/PROJECT TITLE:

2020 Residential Paving

☐

Ordinance

☐

Resolution

☐

Motion

☒

Other

☒ Dept. Head

☐ Finance Director

☐ Attorney

☒ City Clerk

☐ City Manager

ATTACHMENTS:

- **Invitation to Bid**
- **Map with Locations**

DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

There are areas throughout our City with pavement surfaces that require maintenance; the majority of these streets will not qualify for any type of grant or funding outside of normal city funds. The City's goal is to resurface multiple residential blocks each year. With the assistance of the pavement condition index rating system, Staff has been able to identify areas in the City that have the highest need of maintenance. This year, streets in the East Mountain View neighborhood have been identified as roadways having a high need of pavement maintenance. The attached map shows locations proposed for paving as dashed blue lines. Also shown on the map are solid jagged lines, which represent areas where utility adjustments, such as sewer manhole lids, are needed as a follow-up from last years' paving. Using the Municipal Research and Services Center (MRSC) Small Works Roster, an Invitation to Bid (ITB) was distributed on July 29, 2020, with a response deadline of August 12, 2020.

Although the bid opening had not yet occurred as of the time of this briefing, Staff has brought forth the ITB that was distributed, as well as the map with street locations proposed to be paved. By the time of this Council meeting, Staff will be able to identify an apparent low-bidder, with specific contract amounts and a recommendation of award to be brought forward on the action agenda at the next Council meeting.

ANALYSIS/OPTIONS/ALTERNATIVES:

See below

BUDGET/FISCAL INFORMATION:

The adopted 2020 budget allows \$400,000 for street maintenance activities; \$200,000 for Residential Paving and \$200,000 for Chip Seal. Depending on bid prices, Staff may recommend a shift in funding allocation.

PUBLIC INFORMATION REQUIREMENTS:

Information can be obtained from the Public Works Department.

STAFF RECOMMENDATION/MOTION:

Staff requests the Council concur to place this item, including the potential addition of a Project Award Form and Resolution, on the September 1, 2020 action agenda.

INVITATION TO BID

**CITY OF SHELTON
2020 RESIDENTIAL PAVING PROJECT
Small Works Project
Project Estimate: \$195,000 to \$215,000**

The City of Shelton is releasing a Small Works Project. As a Contractor on the City of Shelton MRSC Small Works Roster for "Asphalt Pavement Roadways", you are invited to submit a bid on this project on the enclosed Bid Proposal Form.

Scope of Work: The work to be performed consists of an asphalt lift applied to the road section(s) with a paved width surface being per the dimensions of each location's drawing. The HMA will be no less than 2 inches compacted depth. The HMA will be class 1/2" PG 58H-22. The unit contract price shall include the cost for all labor, materials, equipment and tools for placing, compacting, and constructing asphalt pavement. This includes sealing all cold joints with CSS-1H, tack coat grade of CRS-1 or special tack approved by City Engineer applied at rates specified in 2018 Washington State Department of Transportation Standard Specifications 5-04, and all other associated work as described in the Contract documents.

All prep work on existing asphalt roads, including pavement planing, will be performed by City crews. The City will provide traffic control for each project location and new iron for sewer manhole and water valve adjustments. Advanced construction notification will also be provided by the City to the public and any affected parties.

Solicitation Documents: An electronic copy of the bid packet can be downloaded from the City of Shelton Website on the Public Works Bid Opportunities page at

https://www.sheltonwa.gov/business_development/rfp_and_bid_opportunities.php

Any release of addenda, question and answers, or updates related to this ITB will be posted to the City Website. It is the responsibility of the bidder to frequently monitor this site for any updates regarding this solicitation.

Delivery of Proposal: City of Shelton, 525 W Cota Street, Shelton, WA 98584

All proposals must be clearly marked on the outside **"2020 Residential Paving Project Bid"**.

Bid Date: Wednesday, August 12, 2020 at 2:00 pm

Bidders must be registered on the City of Shelton MRSC Small Works Roster at the time of bid deadline, to be eligible to submit a bid for this project.

Questions and requests for clarification of the specifications may be submitted in writing by **2:00pm, Pacific Time, August 4, 2020, to Brooke Kilts, Public Works Administrative Manager, via email to brooke.kilts@sheltonwa.gov**. In your email subject line, reference the procurement title. It is preferred that all questions be in the body of the email rather than in an

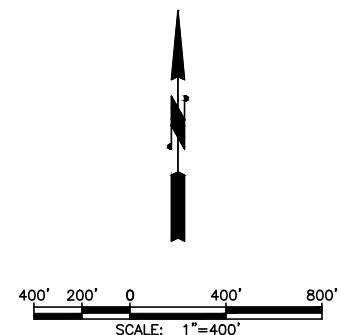
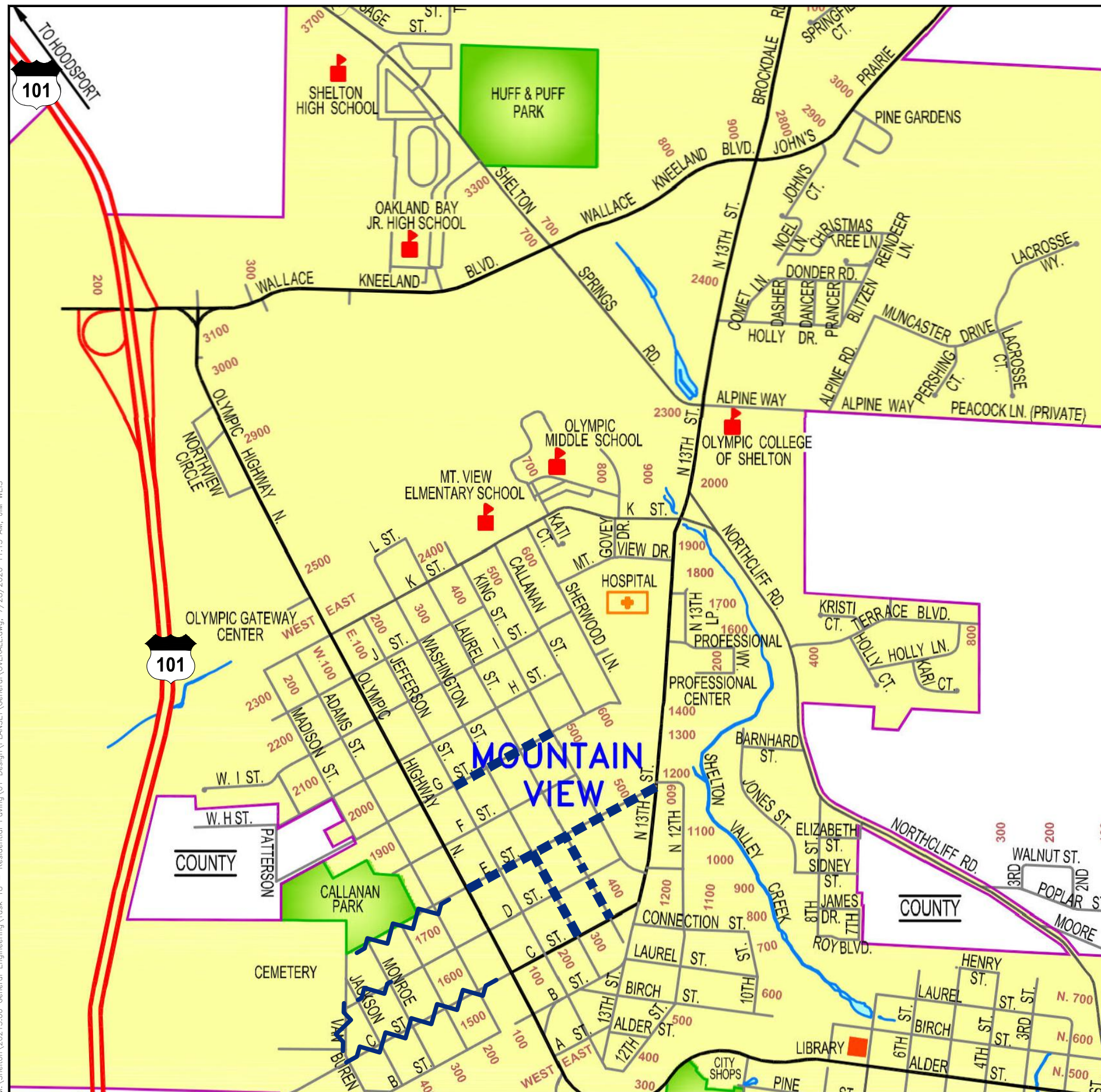
attachment. No further questions will be accepted after this date and time. The City will not be responsible for unsuccessful submittal of questions. No oral responses to questions by City personnel about the project will be binding on the City.

Written answers to all questions submitted will be emailed to the Contractors on the City of Shelton's MRSC Small Works Roster for "Asphalt Pavement Roadways", by 5:00pm August 5, 2020. The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential. The answers are not typically considered an addendum.

The City of Shelton, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award

Discrimination is prohibited. Each Bidder, contractor, or subcontractor (hereinafter the Contractor) shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Contractor, on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap, or any other legally protected status.

The City of Shelton reserves to waive informalities in the bidding, accept a proposal of the lowest responsible bidder, reject any or all bids, revise or cancel the work, or require the work to be done in another way if the best interest of the City is served.



SHEET: 1
OF: 11

JOB NO.: 20213.18
DWG:OVERALL



CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item D2)

Touch Date: 07/21/20
Brief Date: 08/18/20
Action Date: 09/01/20

Department: Public Works
Presented By: Jay Harris

APPROVED FOR COUNCIL PACKET:

Action Requested:

ROUTE TO:

REVIEWED:

- | | |
|--|------------|
| <input checked="" type="checkbox"/> Dept. Head | <u>JOH</u> |
| <input type="checkbox"/> Finance Director | _____ |
| <input type="checkbox"/> Attorney | _____ |
| <input checked="" type="checkbox"/> City Clerk | _____ |
| <input type="checkbox"/> City Manager | _____ |

PROGRAM/PROJECT TITLE:

2020 Chip Seal

ATTACHMENTS:

- **Invitation to Bid**
- **Map with Locations**

- | | |
|-------------------------------------|------------|
| <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | Other |

DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

Chip seal is a pavement surface treatment that is used to maintain city streets and prolong the life of a roadway. On July 29, 2020, using the Municipal Research and Services Center (MRSC) Roster, city staff emailed the Invitation to Bid (ITB) to all contractors on the Small Works Roster for Chip Seal/Bituminous Paving. The ITB specified two separate schedules of area to be chip sealed, allowing city staff to determine a low bid based on any combination of schedules and available budget. The deadline for responses to the ITB is August 12, 2020.

Although the bid opening has not yet occurred as of the time of this briefing, Staff has brought forth the ITB that was distributed, as well as the map with street locations proposed to be chip sealed. By the time of this Council meeting, Staff will be able to identify an apparent low-bidder, with specific contract amounts and a recommendation of award to be brought forward on the action agenda at the next Council meeting.

ANALYSIS/OPTIONS/ALTERNATIVES:

See below

BUDGET/FISCAL INFORMATION:

The adopted 2020 Budget allows \$400,000 for street maintenance activities; \$200,000 for Residential Paving and \$200,000 for Chip Seal. Depending on bid prices, Staff may recommend a shift in funding allocation.

PUBLIC INFORMATION REQUIREMENTS:

Information can be obtained from the Public Works Department.

STAFF RECOMMENDATION/MOTION:

Staff requests the Council concur to place this item, including the potential addition of a Project Award Form and Resolution, on the September 1, 2020 action agenda.

INVITATION TO BID
CITY OF SHELTON
2020 CHIP SEAL PROJECT
Small Works Project
Project Estimate: \$260,000 - \$280,000

The City of Shelton is releasing a Small Works Project. As a Contractor on the City of Shelton MRSC Small Works Roster for “Chip Seal/Bituminous Paving”, you are invited to submit a bid on this project on the enclosed Bid Proposal Form.

Scope of Work: Chip seal and fog seal on certain roads located in the City of Shelton. Materials shall be applied with computerized application rates; liquid asphalt emulsion shall be applied at a minimum of 0.45 gallons per square yard, and 3/8-#10 clean crushed rock shall be spread at 30 lb. per square yard. Compaction shall be with a 12-ton roller. Excess rock shall be cleaned upon completion and swept again prior to fog seal. The fog seal will be applied after the chip seal using CSS-1H, diluted 60:40, and applied at 0.14 gallons per SY. Work shall be done according to WSDOT Standard Specifications.

The Contractor will have 20 (twenty) working days for Schedule A and 20 (twenty) working days for Schedule B, to complete the work in compliance with all applicable laws and regulations.

Solicitation Documents: An electronic copy of the bid packet can be downloaded from the City of Shelton Website on the Public Works Bid Opportunities page at https://www.sheltonwa.gov/business_development/rfp_and_bid_opportunities.php. Any release of addenda, question and answers, or updates related to this ITB will be posted to the City Website. It is the responsibility of the bidder to frequently monitor this site for any updates regarding this solicitation.

Delivery of Proposal: City of Shelton, 525 W Cota Street, Shelton, WA 98584
All proposals must be clearly marked on the outside “**2020 Chip Seal Project Bid**”.

Bid Date: Wednesday, August 12, 2020 at 2:00 pm

Bidders must be registered on the City of Shelton MRSC Small Works Roster at the time of bid deadline, to be eligible to submit a bid for this project.

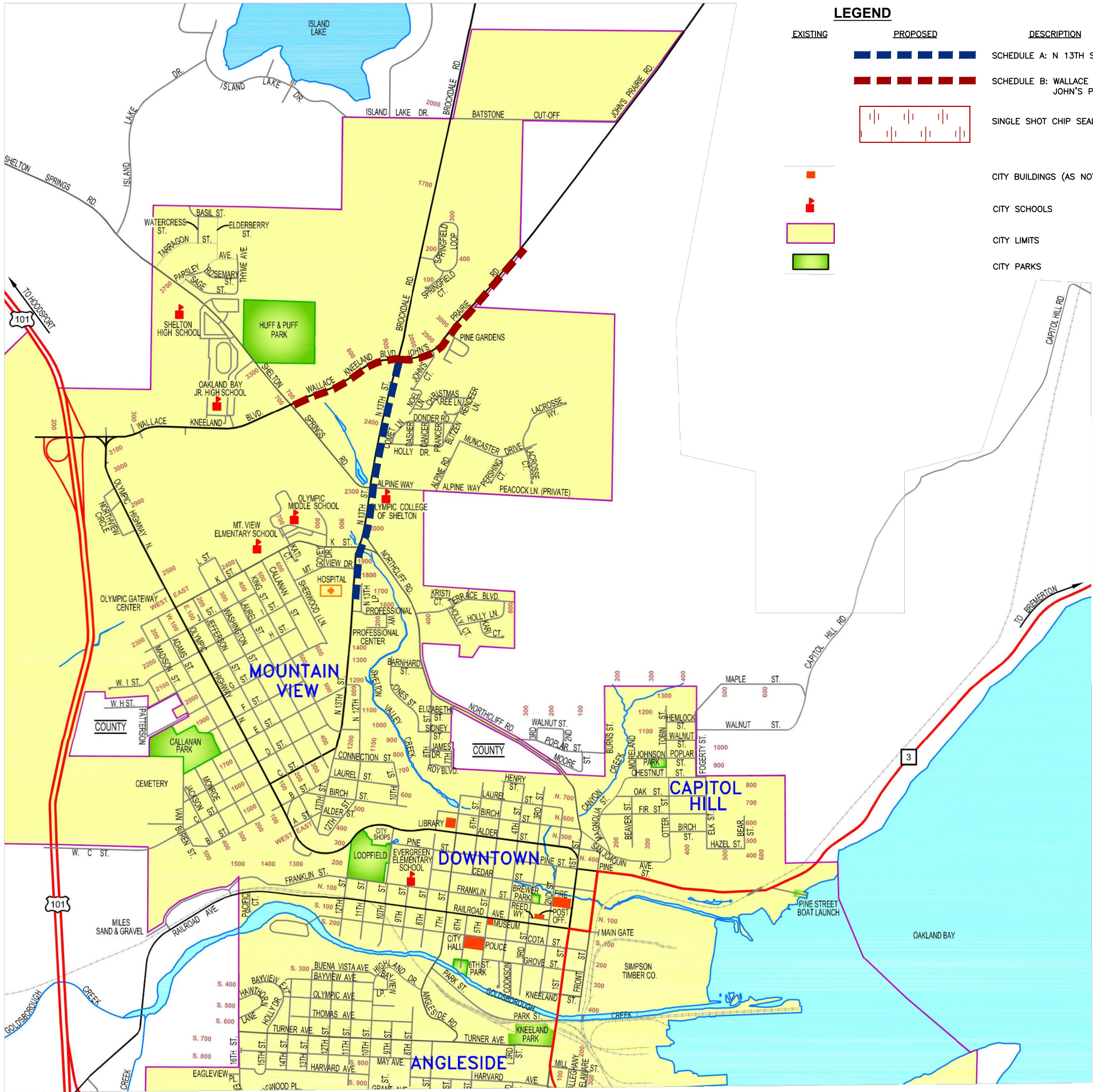
Questions and requests for clarification of the specifications may be submitted in writing by **2:00pm, Pacific Time, August 4, 2020, to Brooke Kilts, Public Works Administrative Manager, via email to brooke.kilts@sheltonwa.gov**. In your email subject line, reference the procurement title. It is preferred that all questions be in the body of the email rather than in an attachment. No further questions will be accepted after this date and time. The City will not be responsible for unsuccessful submittal of questions. No oral responses to questions by City personnel about the project will be binding on the City.

Written answers to all questions submitted will be emailed to the Contractors on the City of Shelton's MRSC Small Works Roster for "Chip Seal/Bituminous Paving", by 5:00pm August 5, 2020. The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential. The answers are not typically considered an addendum.

The City of Shelton, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award

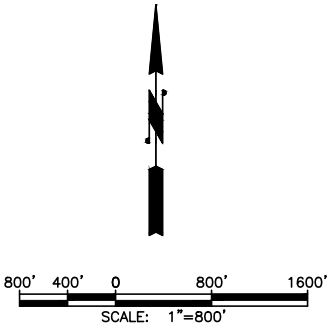
Discrimination is prohibited. Each Bidder, contractor, or subcontractor (hereinafter the Contractor) shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Contractor, on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap, or any other legally protected status.

The City of Shelton reserves to waive informalities in the bidding, accept a proposal of the lowest responsible bidder, reject any or all bids, revise or cancel the work, or require the work to be done in another way if the best interest of the City is served.



LEGEND

- EXISTING PROPOSED DESCRIPTION
- SCHEDULE A: N 13TH ST
- SCHEDULE B: WALLACE KNEELAND BLVD AND JOHN'S PRAIRIE RD
- SINGLE SHOT CHIP SEAL AND FOG SEAL
- CITY BUILDINGS (AS NOTED)
- CITY SCHOOLS
- CITY LIMITS
- CITY PARKS



SHEET INDEX

SHEET	DESCRIPTION
OVERALL PROJECT SHEET	
1	PROJECT AREA MAP, LEGEND, AND SHEET INDEX
SCHEDULE A - 13TH STREET	
2	SCHEDULE A - STA 10+00 TO 18+00
3	SCHEDULE A - STA 18+00 TO 26+00
4	SCHEDULE A - STA 26+00 TO 34+00
5	SCHEDULE A - STA 34+00 TO 42+00
6	SCHEDULE A - STA 42+00 TO 43+40
SCHEDULE B - WALLACE KNEELAND & JOHN'S PRAIRIE	
7	SCHEDULE B - STA 200+00 TO 208+00
8	SCHEDULE B - STA 208+00 TO 216+00
9	SCHEDULE B - STA 216+00 TO 224+00
10	SCHEDULE B - STA 224+00 TO 232+00
11	SCHEDULE B - STA 232+00 TO 240+00



REVISION	DATE	APPD
No.		





CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item E1)

Touch Date: 07/21/2020
Brief Date: 08/04/2020
Action Date: 08/18/2020

Department: Community Development
Presented By: Jason Dose

APPROVED FOR COUNCIL PACKET:

ROUTE TO:

- ☒ Dept. Head
- ☐ Finance Director
- ☐ Attorney
- ☒ City Clerk
- ☒ City Manager

REVIEWED:

PROGRAM/PROJECT TITLE:

**Shoreline Master Program Periodic
Review Grant**

ATTACHMENTS:

**Grant Agreement Number
SEASMP-1921-CiShCD-00098
from the Washington State
Department of Ecology**

Action Requested:

- ☒ Ordinance
- ☐ Resolution
- ☒ Motion
- ☐ Other

DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

In 1971, the Washington State Legislature enacted the Shoreline Management Act (SMA). The Act recognized the value our State's shorelines offer for the recreation, commercial, ecological, and residential needs of our residents and future generations. To meet the requirements of the SMA, the City of Shelton adopted its first Shoreline Master Program (SMP) in 1975. The City waited nearly 20 years to comprehensively update it in 1995 with a substantial grant from the Department of Ecology.

In 2003, the Washington State Legislature passed Substitute Senate Bill(SSB) 6012, which required Cities and Counties to comprehensively update their SMP's, a task that the City completed in May 2013, also with a substantial grant from the Department of Ecology. SSB 6012 also stipulates that Cities and Counties regularly review and update their SMP's, generally on 8 year intervals, to ensure they remain consistent with current State Law and, hopefully, negate the need for very belabored comprehensive updates such as the City undertook in 1995 and 2013.

The City of Shelton is currently slated to have this most recent required update completed by July 2021 and anticipates that the update can be nearly entirely completed with existing staff, though some mapping may need to be updated. To aid in offsetting the cost of this mandated update, the Washington State Department of Ecology has offered the City a \$16,800, no match, grant to aid in offsetting staff time, consulting services, and materials required to update the SMP.

ANALYSIS/OPTIONS/ALTERNATIVES:

The Shelton City Council could opt to accept or reject the attached grant.

BUDGET/FISCAL INFORMATION:

Acceptance of the grant would aid in offsetting staff time and materials.

PUBLIC INFORMATION REQUIREMENTS:

Not applicable.

STAFF RECOMMENDATION/MOTION:

“I move to authorize the Mayor to sign, on behalf of the Shelton City Council, to accept grant monies offered to the City of Shelton by the Washington State Department of Ecology in grant agreement SEASMP-1921-CiShCD-00098.”



Agreement No. SEASMP-1921-CiShCD-00098

SHORELANDS SHORELINE MASTER PROGRAM AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF SHELTON

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 Shelton, 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:	\$16,800.00
Total Eligible Cost:	\$16,800.00
Ecology Share:	\$16,800.00
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-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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 City will use grant funds for Task 1, 3, 4, and 5. They will use a MOU with Mason County to complete the mapping for Task 4 and 5.

Overall Goal:

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

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

RECIPIENT INFORMATION

Organization Name: City of Shelton

Federal Tax ID: 91-6001277

DUNS Number: 021830066

Mailing Address: 525 West Cota Street
Shelton, WA 98584

Physical Address: 525 West Cota Street

Organization Email: jason.dose@sheltonwa.gov

Contacts

Project Manager	Jason Dose Senior Planner 525 W Cota Street Shelton, Washington 98584 Email: jason.dose@sheltonwa.gov Phone: (360) 426-9731
Billing Contact	Don Kuismi Finance Specialist 525 W Cota Street Shelton, Washington 98584 Email: dkuismi@ci.shelton.wa.us Phone: (360) 426-9731
Authorized Signatory	Jason Tyler Dose Senior Planner 525 W Cota Street Shelton, Washington 98584 Email: jason.dose@sheltonwa.gov Phone: (360) 426-9731

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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

Project Manager	Kim Van Zwalenburg PO Box 47775 Olympia, Washington 98504-7775 Email: kvan461@ecy.wa.gov Phone: (360) 407-6520
Financial Manager	Cindy James PO Box 47600 Olympia, Washington 98504-7600 Email: cjam461@ecy.wa.gov Phone: (360) 407-7421

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

SCOPE OF WORK

Task Number: 1 **Task Cost:** \$3,000.00

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: Jason Dose

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

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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: Jason Dose

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.	

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

SCOPE OF WORK

Task Number: 3 **Task Cost:** \$2,000.00

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: Jason Dose

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.	

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

SCOPE OF WORK

Task Number: 4 **Task Cost: \$8,500.00**

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.

Recipient Task Coordinator: Jason Dose

Agreement No: SEASMP-1921-CiShCD-00098

Project Title: Shoreline Master Program – Periodic Review

Recipient Name: City of Shelton

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.	

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

SCOPE OF WORK

Task Number: 5 **Task Cost:** \$3,300.00

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: Jason Dose

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.	

Agreement No: SEASMP-1921-CiShCD-00098
 Project Title: Shoreline Master Program – Periodic Review
 Recipient Name: City of Shelton

BUDGET

Funding Distribution EG200565

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 (MTFunding Type: Grant
 Funding Effective Date: 07/01/2020 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: 26%
 Recipient Match %: 0%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

Model Toxics Control Operating Account (MTCOA)	Task Total
1. Project Oversight: Coordination, Management, and Administration	\$ 3,000.00
2. Secure Consultant Services, If Needed	\$ 0.00
3. Public Participation	\$ 2,000.00
4. Review Shoreline Master Program and Draft Revisions, If Needed	\$ 8,500.00
5. Final Draft SMP or Findings of Adequacy	\$ 3,300.00

Total: \$ 16,800.00

Agreement No: SEASMP-1921-CiShCD-00098

Project Title: Shoreline Master Program – Periodic Review

Recipient Name: City of Shelton

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	\$ 16,800.00	\$ 16,800.00
Total		\$ 0.00	\$ 16,800.00	\$ 16,800.00

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

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for 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.fsrcs.gov <http://www.fsrcs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

Agreement No: SEASMP-1921-CiShCD-00098

Project Title: Shoreline Master Program – Periodic Review

Recipient Name: City of Shelton

For more details on FFATA requirements, see www.fsrs.gov <<http://www.fsrs.gov>>.

DRAFT

Agreement No: SEASMP-1921-CiShCD-00098

Project Title: Shoreline Master Program – Periodic Review

Recipient Name: City of Shelton

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.

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

- 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.
- 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.

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

- 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.

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

(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

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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.

d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington,

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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 imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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

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

Agreement No: SEASMP-1921-CiShCD-00098
Project Title: Shoreline Master Program – Periodic Review
Recipient Name: City of Shelton

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.



CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item E2)

Touch Date: 01/13/2020
Brief Date: 07/20/2020
Action Date: 08/18/2020

Department: Executive
Presented By: Jeff Niten

APPROVED FOR COUNCIL PACKET:

ROUTE TO:

- ☐ Dept. Head
- ☐ Finance Director
- ☐ Attorney
- ☒ City Clerk
- ☒ City Manager

REVIEWED:

PROGRAM/PROJECT TITLE:

Simpson Properties Purchase and Sale

ATTACHMENTS:

**Resolution 1166-0820
Purchase and Sale Agreement
Map(s) of Properties**

Action Requested:

- ☐ Ordinance
- ☒ Resolution
- ☒ Motion
- ☐ Other

DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

City of Shelton staff and representatives from the Simpson Lumber Company, LLC. have been in discussions for more than a year regarding potential opportunities for city acquisition and resident enjoyment of Simpson Railroad properties and several other separated parcels throughout the city for potential recreational amenities.

The properties presented for Council consideration, as shown on the attached map(s), include the entirety of the Railroad Right-of-Way from First St. adjacent to and immediately north of Kneeland Park in the east to the Highway 101 right-of-way to the west. These properties will be considered for potential regional recreational amenities by advisory bodies or other alternatives as those opportunities present themselves. Other properties under consideration are generally steep and/or remnants that the city will likely keep in an undeveloped state to provide open space.

City staff have had an opportunity to inspect the properties; however, no formal environmental analysis has been completed. Based on "rails to trails" programs reviewed in other jurisdictions similar to this one it is reasonable to expect little to no contamination on the subject site, and if any mitigation is required that will likely be an asphalt cap similar to the regional recreational amenities described above.

There is no cost to purchase the properties, other than payment of Real Estate Excise Tax (REET) to Mason County to facilitate the property transfer. The estimated REET is \$1,022.00.

ANALYSIS/OPTIONS/ALTERNATIVES:

The Shelton City Council could opt to accept or reject conveyance of the Simpson Lumber Railroad and City properties. If rejected the rail line would likely remain in the same or similar condition as it exists today, and has the potential to carry rail traffic if desired by a future potential buyer.

BUDGET/FISCAL INFORMATION:

REET liability of approximately \$1,022.00.

PUBLIC INFORMATION REQUIREMENTS:

Information about this proposal may be obtained from the City Clerk.

STAFF RECOMMENDATION/MOTION:

“I move that the City Council authorize the Mayor to sign, on behalf of the Shelton City Council, to execute the Real Estate Purchase and Sale Agreement with Simpson Lumber Company, LLC.”

RESOLUTION NO. 1160-0820

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SHELTON, WASHINGTON, RATIFYING THE
PURCHASE AND SALE AGREEMENT WITH SIMPSON LUMBER COMPANY LLC FOR CONVEYANCE
OF RAILROAD, TIMBER, AND LUMBER PROPERTIES.**

WHEREAS, Simpson Lumber Company LLC (“Simpson”) desires to convey railroad rights-of-way it currently owns east of Highway 101, along with other parcels of real property used for lumber or timber purposes; and

WHEREAS, in exchange for the conveyance, the City has agreed to hold Simpson harmless from any future environmental liability for the Properties; and

WHEREAS, the City of Shelton has determined that the properties conveyed are intended to be used for a good governmental purpose including potential multi-modal transportation facilities benefiting the entire community; and

WHEREAS, the Purchase and Sale Agreement conveying the Properties to the City requires ratification by the Shelton City Council.

THEREFORE, BE IT RESOLVED by the City Council of the City of Shelton that the attached Real Estate Purchase and Sale Agreement with Simpson Lumber Company, LLC, is ratified.

Passed by the City Council at its regular meeting held on the 18th day of August 2020.

Mayor Dorcy

ATTEST:

City Clerk Nault

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement is made as of August 18, 2020 (“Effective Date”), between Simpson Lumber Company, LLC, a Delaware limited liability company (“Simpson Lumber”), Simpson Timber Company, a Washington corporation (“Simpson Timber”) (collectively “Sellers”), and City of Shelton, a Washington municipal corporation (“Buyer”).

Recitals

A. Simpson Lumber owns railroad rights-of-way lying east of U.S. Highway 101 in Mason County, Washington, as shown on attached Exhibit A (“Railroad Properties”).

B. Simpson Lumber is the owner of certain real property located in Mason County, Washington legally described on attached Exhibit B (“Lumber City Properties”).

C. Simpson Timber is the owner of certain real property located in Mason County, Washington legally described on attached Exhibit C (“Timber City Properties”).

D. Buyer desires to purchase the Properties from Sellers, and Sellers are willing to sell the Railroad Properties, Lumber City Properties and Timber City Properties (collectively “City Properties”) to Buyer, on the terms and conditions set forth in this Agreement.

E. Simpson Lumber desires to convey the Railroad Properties to Buyer solely in exchange for the Buyer’s assumption of risk and release described in Section 5.1 (“Buyer Assumption of Risk and Release”) without any monetary consideration payable at Closing for Seller’s conveyance of the Railroad Properties. Seller does not intend to donate the Railroad Properties but instead to convey them in exchange for the Buyer Release, and Buyer acknowledges that the Buyer Release constitutes full and adequate consideration for Seller conveying the Railroad Properties to Buyer, and that Seller’s conveyance of the Railroad Properties is full and adequate consideration for the Buyer Release.

F. Sellers desire to convey the City Properties to Buyer solely in exchange for the Buyer’s assumption of risk and indemnity described in Section 5.2 (“Buyer’s Indemnity”) without any monetary consideration payable at Closing for Sellers’ conveyance of the City Properties. Sellers do not intend to donate the City Properties but instead to convey them in exchange for the Buyer’s Indemnity, and Buyer acknowledges that the Buyer Indemnity constitutes full and adequate consideration for Sellers conveying the City Properties to Buyer, and that Sellers’ conveyance of the City Properties is full and adequate consideration for the Buyer Indemnity.

Terms

Therefore, in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties agree as follows:

1. **Certain Defined Terms.** Unless separately defined in the text of this Agreement, or unless context clearly requires a different meaning, terms with initial capital letters shall have the meanings specified in the Glossary of Terms in Section 16.

2. **Closing.** Closing shall occur on or before August 31, 2020, after fulfillment of the Closing conditions set forth in Section 11 (“Closing Date”), at the offices of Mason County Title Company, located at 130 West Railroad Avenue, Shelton, Washington 98584.

3. **Purchase and Sale.** At the Closing, Sellers shall sell the Railroad Properties and City Properties to Buyer, and Buyer shall purchase the Railroad Properties and City Properties from Sellers.

4. **Purchase Price.** The purchase price shall be the Buyer Assumption of Risk and Release for the Railroad Properties and Buyer Release and Indemnity for City Properties (“Purchase Price”) without any monetary consideration payable for the Railroad Properties and City Properties at Closing from Buyer to Sellers.

Solely for purposes of establishing the “selling price” for the real estate excise tax affidavit (“REETA”) that Sellers and Buyer must execute in order to record a deed to the Railroad Properties and City Properties at Closing, the parties shall use the appraised value of \$63,860.00. As required by law, both Sellers and Buyer shall execute and deliver the REETA to the Mason County Recorder when recording the deed to the Property, and both Sellers and Buyer agree that the conveyance is not exempt from real estate excise tax as a gift because the conveyance of the Railroad Properties and City Properties are not a gift and Sellers are receiving consideration in the form of the Buyer Assumption of Risk and Release for the Railroad Properties and Buyer Assumption of Risk and Indemnity for the City Properties in exchange for conveyance of the Railroad Properties and City Properties.

5. **Buyer Assumption of Risk, Release, and Indemnity.**

5.1. Buyer acknowledges that it has had the opportunity to inspect the Railroad Properties and to observe their physical characteristics and existing conditions and any regulatory obligations as they relate to the Railroad Property as Buyer deems necessary, and Buyer hereby FOREVER RELEASES AND DISCHARGES Simpson Lumber from all responsibility and liability (other than that arising under the representations, warranties or covenants of Simpson Lumber expressly set forth in this Agreement or due to Simpson Lumber’s fraud), including without limitation, liabilities and responsibilities for the physical, environmental or legal compliance status of the Railroad Properties, whether arising before or after the Closing Date, whether known or unknown, and regarding the condition, valuation, salability or utility of the Railroad Properties, or their suitability for any purpose whatsoever (including, but not limited to, with respect to the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Material or other materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Railroad Properties under current or future federal, state and local laws, regulations or guidelines, and any structural and geologic conditions, subsurface soil and water conditions and solid and

hazardous waste and Hazardous Material on, under, adjacent to or otherwise affecting the Railroad Properties). Except as to representations, warranties or covenants of Simpson Lumber expressly set forth in this Agreement, Buyer further hereby WAIVES (and by Closing this transaction will be deemed to have WAIVED) any and all objections and complaints (including, but not limited to, federal, state and local statutory and common law based actions, and any private right of action under any federal, state or local laws, regulations or guidelines to which the Railroad Properties are or may be subject, including, but not limited to, Environmental Laws) concerning the physical characteristics and any existing conditions of the Railroad Properties whether arising before or after the Closing Date.

5.2. Buyer agrees to defend, indemnify, and hold harmless Sellers from and against (a) any and all claims, liabilities, and obligations of every kind and description, contingent or otherwise, arising out of or related to the City Properties and (b) any and all damage or deficiency resulting from any material misrepresentation, breach of warranty or covenant, or nonfulfillment in any material respect of any agreement on the part of Buyer under this Agreement. Without limiting the generality of the foregoing, Buyer shall indemnify, defend, and hold harmless each Seller and its respective directors, officers, employees, affiliates, controlling persons, agents and representatives and their successors and assigns ("Seller Indemnitees") from and against all liability, demands, claims, actions or causes of action, assessments, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) asserted against or incurred by any Seller Indemnitee as a result of or arising out of (i) any and all damage or deficiency resulting any material breach of representation or warranty on the part of Buyer contained in Section 8 of this Agreement, (ii) any breach of any agreement or covenant of Buyer contained in this Agreement, (iii) all liabilities arising from the use, operation or ownership of the City Properties after Closing, and/or (iv) all Environmental Liabilities and Environmental Penalties, known or unknown, arising out of or relating to ownership, operations, use, activities and release or migration of Hazardous Substances on, to or under the City Properties prior to Closing, including any obligation to remove, clean up or remediate all Hazardous Substances relating to the City Properties (collectively, "Indemnification Events"). Although Buyer shall be obligated, at its own expense, to defend against third-party Indemnification Events, Seller may participate, at its own expense, in the defense of third-party Indemnification Events, and Buyer shall not settle third-party claims against Sellers without the written consent of Sellers, which shall not be unreasonably withheld, conditioned, or delayed. This Buyer Indemnity shall survive the Closing indefinitely.

6. Use Restrictions. The following use restrictions, as will be recorded against the Railroad Properties in the Deed (attached hereto), shall apply to the Railroad Properties:

6.1. Surface Use Only. Excavations on the Railroad Properties within 10 feet to either side of the main rail centerline shall be limited to three feet below the existing surface grade of the Railroad Properties

6.2. Contamination of Soil. Any activity on the Railroad Properties identified in 6.1 that will compromise the Railroad Properties below three feet from the surface, including: drilling, digging, sampling, installing posts or stakes, grading, or excavating, is prohibited.

6.3. Utility Crossings. With 60 days notice to Simpson Lumber, City utility and franchise utility crossings of the Railroad Properties may be installed at any depth. Crossings shall have a maximum trenching width of forty-eight (48") inches.

7. Seller's Representations and Warranties. Seller represents and warrants to Buyer as follows:

7.1. Status. Simpson Lumber is a limited liability corporation duly organized and validly existing under the laws of the State of Delaware, is duly qualified and licensed to do business in the State of Washington, and has all requisite power to enter into and perform its obligations under this Agreement.

Simpson Timber is a corporation duly organized and validly existing under the laws of the State of Washington. Simpson Timber has all requisite power to enter into and perform its obligations under this Agreement.

7.2. Authorization. Sellers' execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate action, and this Agreement constitutes a valid and legally binding obligation of Sellers, duly enforceable in accordance with its terms.

7.3. Third-Party Consents. No consent or approval of any third party is required in connection with Sellers' execution, delivery or performance of this Agreement.

7.4. Absence of Impediments. Sellers' execution, delivery and performance of this Agreement does not, and shall not, violate or constitute an event of default (with or without notice, time lapse or both) of any agreement or other instrument to which Sellers are a party or by which Sellers are bound.

7.5. Condition of Property. To the knowledge of Sellers without independent inspection, there are: (i) no hazardous or toxic materials located or released on or under the Railroad Properties or City Properties; (ii) no unremedied violations of environmental laws or environmental permits relating to the Railroad Properties or City Properties; and (iii) no latent and material defects in the Railroad Properties or City Properties. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLERS MAKE NO REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, VALUE, COST, SUITABILITY, HABITABILITY, OR FITNESS OF THE RAILROAD PROPERTIES AND CITY PROPERTIES FOR ANY PARTICULAR PURPOSE AND IS SELLING THE RAILROAD PROPERTIES AND CITY PROPERTIES "AS IS, WHERE IS" WITH ALL OF THEIR FAULTS. Other than as set forth in Exhibit D, Sellers have not made any verbal or written representations, warranties, promises or guarantees (whether express, implied, statutory or otherwise) to Buyer with respect to the Sellers Railroad Properties and City Properties, or the results of any investigations. Buyer agrees that the transfer of the Railroad Properties and City Properties by Sellers constitutes good and sufficient consideration for the disclaimer by Sellers of any and all additional warranties and representations and Buyer's acceptance of this "as-is, where-is" sale. Buyer has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Sellers, past or present, with respect to the

Railroad Properties and City Properties of any kind or nature whatsoever, whether oral or written, express, implied, statutory or otherwise, from Sellers.

7.6. Taxes. All taxes due from Sellers with respect to the Railroad Properties and City Properties have been or will be paid by Sellers. Buyer is not required to withhold any tax from the Purchase Price due Sellers pursuant to Section 1445 of the Code as a result of the transactions contemplated in this Agreement because Sellers are not a foreign person within the meaning of Section 1445 of the Code and the United States Treasury regulations thereunder.

7.7. Survival. The representations and warranties of Seller in this Agreement shall survive the Closing for a period of twelve (12) months after the Closing Date.

8. Buyer's Representations and Warranties. Buyer represents and warrants to Sellers as follows:

8.1. Status. Buyer is a municipal corporation duly organized and validly existing under the laws of the State of Washington and has all requisite power and authority to enter into and perform its obligations under this Agreement.

8.2. Authorization. Buyer's execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary municipal action, including approval by the Shelton City Council, and this Agreement constitutes a valid and legally binding obligation of Buyer, duly enforceable in accordance with its terms.

8.3. Third-Party Consents. No consent or approval of any third party is required in connection with Buyer's execution, delivery or performance of this Agreement

8.4. Absence of Impediments. Buyer's execution, delivery and performance of this Agreement does not, and shall not, violate or constitute an event of default (with or without notice, time lapse or both) of any trust agreement, contract, order, directive or other instrument to which Buyer is a party or by which Buyer is bound.

8.5. Brokerage. Buyer has not employed any finder or broker who is entitled to any fee or commission in connection with the transaction described in this Agreement.

8.6. Survival. The representations and warranties of Buyer in this Agreement shall survive the Closing for the applicable period of limitations.

9. Conduct Prior To Closing. Sellers shall endeavor to preserve the status quo with respect to the Railroad Properties and City Properties and shall not mortgage or enter into any material contract affecting the Railroad Properties or City Properties without first obtaining Buyer's consent, which shall not be unreasonably withheld, conditioned or delayed. Prior to Closing, Simpson Lumber shall ensure that Parcel Numbers 32017-34-00020, 32020-12-00010, and 32020-12-00050 are cleaned up, including the removal of all litter, garbage, and personal property. The Buyer shall supervise the clean-up, provide notice to vacate to any trespassers on the property, and will arrange for, at no cost to Simpson, the necessary dumpsters, transport, and disposal fees for any debris removed.

10. Possession. Buyer shall take possession of the Railroad Properties and City Properties at and after the Closing. After Closing, Buyer shall assume all responsibility for maintenance and development of the Railroad Properties and City Properties, including but not limited to any necessary or required environmental remediation studies or actions.

11. Closing Conditions. As a condition to each party's obligation to close the purchase and sale described in this Agreement, the other party's representations and warranties shall be true as of the Closing Date as though then made and the other party shall have performed all covenants and conditions required to be performed on its or their part prior to the Closing.

12. Closing Obligations. At the Closing:

12.1. Sellers' Obligations. Sellers shall: (i) execute and deliver to Buyer, warranty deed deeds to the Railroad Properties and City Properties conveying the Sellers' entire interest in the Railroad Properties and City Properties to Buyer; and (ii) execute and deliver a real estate excise tax affidavit to Buyer for the sale of the Railroad Property and City Properties.

12.2. Buyer's Obligations. Buyer shall: (i) execute and deliver a real estate excise tax affidavit to the Sellers for the purchase of the Property; (ii) pay any recording fees, any premium owing to a title company, or escrow fees and costs incurred in closing the transaction, and (iii) pay the real estate excise tax due upon conveyance of the Railroad Properties and City Properties.

13. Prorations. At the Closing, Buyer and Seller shall prorate all real estate taxes and assessments payable and all rents receivable with respect to the Railroad Properties and City Properties during the calendar year in which the Closing occurs.

14. Notices. All notices and other communications required or permitted hereunder shall be written and given by (i) personal delivery, (ii) first class registered or certified mail, postage prepaid and return receipt requested, (iii) overnight receipted courier delivery, or (iv) electronic mail along with a hard copy by regular mail, addressed or transmitted to the recipient at the street and email addresses specified below or at such other address or addresses as the recipient may specify by notice as herein provided:

To Seller: Simpson Lumber Company, LLC
1301 Fifth Avenue, Suite 2700
Seattle, WA 98101-2675
Attn: Kathryn Navarro
Email Address: Kathryn.Navarro@simpson.com

Simpson Timber Company
1301 Fifth Avenue, Suite 2700
Seattle, WA 98101-2675
Attn: Kathryn Navarro
Email Address: Kathryn.Navarro@simpson.com

To Buyer: City of Shelton
525 W Cota Street
Shelton, WA 98584
Attn: Jeff Niten, City Manager
Email Address: jeff.niten@sheltonwa.gov

Notices that are personally delivered shall be effective upon delivery, and personal delivery shall include delivery by overnight-receipted courier or email at the addresses indicated.

15. Enforcement. If either party commences a legal proceeding to enforce, interpret or recover damages for breach of this Agreement, the substantially prevailing party shall be entitled to recover its reasonable attorneys' fees and expenses incurred at trial, during pre-trial preparation and on appeal from the non-prevailing party.

16. Glossary of Terms. Unless separately defined in this Agreement, the following terms shall have the meanings specified below:

"Environmental Laws" shall mean any federal, state or local laws and the regulations promulgated thereunder relating to pollution (including emissions, discharges, disseminations, releases or threatened releases of Hazardous Substances into the environment), protection of the environment (including ambient air, surface water, ground water, soil, land surface or subsurface strata, flora, fauna, and other natural resources) or the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances.

"Hazardous Substances" shall mean any chemical, compound, constituent, material, waste, contaminant (including petroleum, crude oil or any fraction thereof) or other substance, defined as hazardous or toxic, or otherwise regulated by any Environmental Laws promulgated and as amended from time to time prior to Closing, including: (i) the Comprehensive Environmental Response, Compensation and Liability Act (as amended by the Superfund Amendments and Reauthorization Act), 42 U.S.C. § 9601 et seq.; (ii) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 690 et seq.; (iii) the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; (iv) the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; (v) the Clean Water Act, 33 U.S.C. § 1251 et seq.; (vi) the Clean Air Act, 42 U.S.C. § 7401 et seq.; (vii) the Model Toxics Control Act, RCW 70.105D et seq. ("MTCA"); and (viii) any federal, state or local laws based on, or substantially similar to, the federal statutes listed in parts (i) through (vi) of this paragraph.

"Knowledge" shall mean, with respect to Seller, the actual knowledge of Jerry Enslow and Dave McEntee.

"Law" shall mean any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

"Person" shall mean any individual, partnership, limited liability company, association, group, joint venture, corporation, trust, unincorporated organization, government or

any department or agency thereof, or any other entity.

“Release” shall mean any spill, leak, pumping, pouring, emission, discharge, injection, escape, leaching, disposal, or other release into the environment (including ambient air, surface water, ground water, soil, land surface or subsurface strata, flora, fauna and other natural resources) of any Hazardous Substance.

17. Ratification by Shelton City Council. As a condition to Closing, this Agreement shall be approved by the Shelton City Council in an open public meeting, pursuant to Chap. 42.30 RCW. Ratification by the City Council shall constitute final and irrevocable acceptance of all terms in the Agreement, including but not limited to indemnification obligations.

18. Washington Disclosure Statement. Attached hereto as Exhibit E is a completed, signed and dated Disclosure Statement required by Section 64.06.013 of the Revised Code of Washington, and Buyer hereby acknowledges receipt thereof and hereby waives its right to rescind this Agreement pursuant to Section 64.06.030 of the Revised Code of Washington.

19. Miscellaneous Provisions. This Agreement (i) constitutes the entire understanding of Sellers and Buyer on the purchase and sale of the Railroad Properties and City Properties; (ii) supersedes all prior and contemporaneous understandings on the subject; (iii) may only be amended by an instrument in writing signed by both parties; (iv) shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties; (v) may be executed in counterparts, each of which shall be considered an original of the same instrument; (vi) may be delivered electronically by email or fax with the same legal force and effect as an instrument bearing original signatures; and (vii) shall be governed by and construed in accordance with the laws of the State of Washington without regard to its choice of law rules.

EXECUTED as of the date first above written.

Sellers:

Buyer:

SIMPSON TIMBER COMPANY

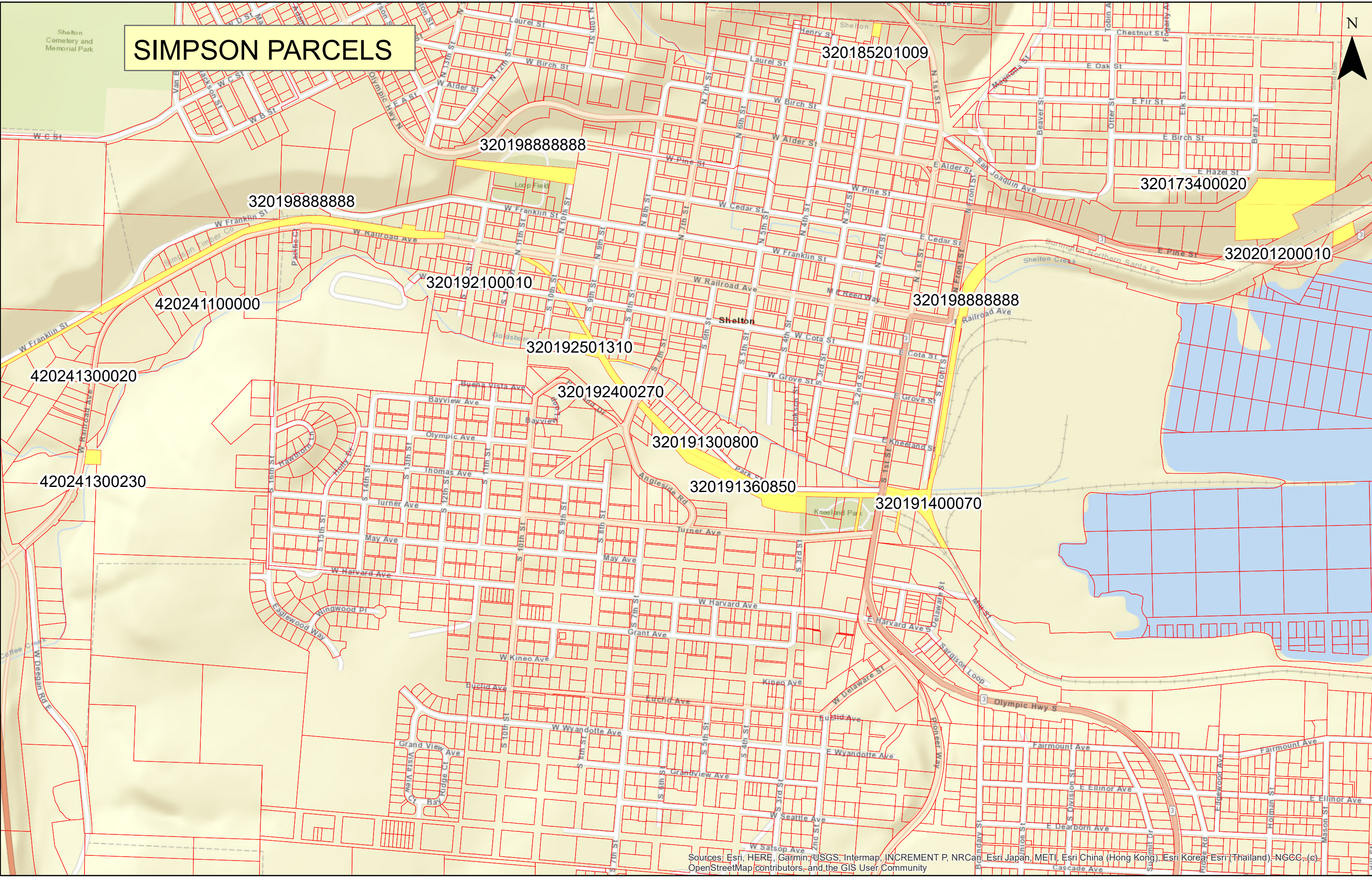
CITY OF SHELTON

SIMPSON LUMBER COMPANY, LLC

EXHIBIT A

PROPERTY TRANSFER LEGAL DESCRIPTION

SIMPSON PARCELS



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SIMPSON PARCELS

