

# INTERLOCAL COOPERATION AGREEMENT

*Between*

**Cities of Kennewick, Richland, Pasco and West Richland**

*For*

**Administration and Funding of Quad-City Stormwater Effectiveness Study and  
Water Quality Stormwater Grant Application**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into on this 21st day of September, 2021 by and between the City of Kennewick (hereinafter “Kennewick”), the City of Richland (hereinafter “Richland”), the City of Pasco (hereinafter “Pasco”), and the City of West Richland (hereinafter “West Richland”), all municipal corporations of the State of Washington (referred to collectively as the “Quad-Cities”). This Agreement is made in conformance with and under the authority granted by RCW 39.34, the Interlocal Cooperation Act.

## I. Recitals

WHEREAS, in July 2019 the Washington State Department of Ecology issued the Eastern Washington Phase II Municipal Stormwater Permit (hereinafter “Permit”); and

WHEREAS, the Permit requires the Quad-Cities to participate in the implementation of a Stormwater Management Program Effectiveness Study (S8.A of the Permit); to obtain funding to complete this study the Quad-Cities will be applying for a Department of Ecology 2021-2023 Water Quality Stormwater Grant (hereinafter “Grant”) and

WHEREAS, staff in Richland, Kennewick, Pasco and West Richland have collaborated to select an engineering consultant and to negotiate a scope of work and budget for the preparation of the Grant application; and

WHEREAS, the Interlocal Cooperation Act contained in RCW 39.34 authorizes local governments such as the Parties to this Interlocal to contract for the joint conduct of activities which each of the Parties is individually authorized to perform.

NOW, THEREFORE, the Parties hereby agree as follows:

## II. Agreement

### Section 1. Purpose

The purpose of this Interlocal Cooperation Agreement is to authorize a collaborative effort between the Parties to complete the application process for the Grant.

### Section 2. Legal Entity

No separate legal or administrative entity is created upon execution of this Interlocal Cooperation Agreement.

### Section 3. Administration

West Richland has awarded and will administer the consultant agreement contemplated under this Interlocal Cooperation Agreement. The consultant agreement is attached as **Exhibit A**.

Section 4. Funding and Contributions

Consultant expenses shall be shared in four (4) equal amounts between Richland, West Richland, Pasco and Kennewick. West Richland shall issue invoices to Richland, Pasco, and Kennewick for their respective share agreement expenses. Invoices shall issue no more frequently than monthly. Scope and budget changes that increase the project budget may only be executed after written authorization from all four Parties.

Section 5. Property

No real or personal property shall be acquired as a consequence of the execution of this Interlocal Cooperation Agreement.

Section 6. Additional Resources

Richland, Kennewick, Pasco, and West Richland will provide staff support to complete data requests, meeting attendance, and reviews as needed to efficiently administer the Grant application. This Interlocal Agreement will be amended if the Quad-Cities are successful in obtaining the Grant for the Effectiveness Study.

Section 7. Duration

This Agreement shall expire twelve months after the close-out of the consultant agreement. All obligations to pay the respective one-fourth share to fund the plan update shall survive termination of this Agreement.

Section 8. Notices

Written notice shall be directed to the parties as follows:

**City of Richland**

625 Swift Boulevard, MS-26  
Richland, WA 99352  
Attn: Public Works Director

**City of West Richland**

3100 Belmont Blvd., Suite 102  
West Richland, WA 99353  
Attn: Public Works Director

**City of Kennewick**

210 W. 6<sup>th</sup> Avenue  
Kennewick, WA 99336  
Attn: Public Works Director

**City of Pasco**

525 N. 3<sup>rd</sup> Avenue  
Pasco, WA 99301  
Attn: Public Works Director

Section 9. Filing

Pursuant to RCW 39.34.040, this Agreement shall become effective upon filing with the Benton County Auditor or posting on each agency's website after it is fully executed by all Parties.

Section 10. Modification

This Agreement may be amended or modified only in writing, and only with the written consent of each undersigned party.

Section 11. Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable as written, the remainder of the Agreement or the applications of the remainder of the Agreement shall not be affected. To this end, the terms and conditions of this Agreement are declared severable.

Section 12. Jurisdiction & Venue

Jurisdiction and venue for any action relating to the interpretation, enforcement, or any dispute arising from this Agreement shall be in Benton County Superior Court. This Agreement shall be construed, and the legal relations between the parties hereto shall be determined in accordance with the laws of the State of Washington.

Section 13. Waiver

No waiver by either party hereto of any terms or conditions of this Agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall the waiver of any breach be deemed or construed to constitute a waiver of any subsequent breach, whether of the same or any other term or condition of this Agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the day and year written above.


**CITY OF RICHLAND**

DocuSigned by:  
  
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Jon Amundson, Interim City Manager

**CITY OF KENNEWICK**

DocuSigned by:  
  
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Marie E. Mosley, City Manager

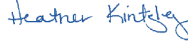
Attest:

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Jennifer Rogers, City Clerk

Attest:

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Terri L. Wright, City Clerk

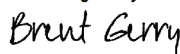
Approved as to form:

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Heather Kintzley, City Attorney


Approved as to form:

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Lisa Beaton, City Attorney

**CITY OF WEST RICHLAND**

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Brent Gerry, Mayor

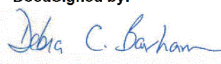
**CITY OF PASCO**

DocuSigned by:  
  
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Dave Zabel, City Manager

Attest:

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Stephanie Haug, City Clerk


Attest:

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Debby Barham, City Clerk

Approved as to Form:

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Bronson Brown, City Attorney

Approved as to Form:

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Kerr, Ferguson Law, PLLC, City Attorney



## SCOPE OF WORK

The project is to develop a 2021 Washington State Department of Ecology Stormwater Grant of Regional Significance (GROSS) Grant application for the City of West Richland Effectiveness Study. This is expected to include:

- Meet with the jurisdictions who are planning to team on the effectiveness study to collect their ideas for the study.
- Develop a fact sheet that summarizes the key points of the project. The fact sheet will be submitted with the grant application.
- Meet with Ecology and the jurisdictions that are teaming on the effectiveness study to collect feedback on the fact sheet. The fact sheet will be updated to address comments from these meetings.
- Develop a grant application for the City following Ecology requirements for GROSS grants and that addresses comments collected during meetings with the jurisdictions teaming on this project.
- Load the application into EAGL on-behalf of the City.
- Develop a draft letter requesting support from other jurisdictions.

### Assumptions:

- OCI will develop a draft application for the jurisdictions to review and will update the application per City comments.
- The fact sheet will be two pages and contain an overview of the study, conceptual research design with figures illustrating the test site setup, and discussion about how the study results could be applied to benefit Washington permittees.
- Draft documents will be posted on a OneDrive site for the City and other jurisdictions review.
- OCI will upload the application into the Ecology EAGL program prior to the grant deadline.

### City tasks:

- Provide review and comments for the draft application and fact sheet based on a mutually agreed upon timeframe that will be determined after this contract is executed.
- Finalize the draft letter of support developed by OCI. Then send out the letter requesting support from jurisdictions. Letters received will be submitted with the grant application. The City is responsible for uploading these letters to EAGL.
- The City of West Richland is responsible for giving OCI access to their EAGL account. The City is also responsible for submitting the grant application.

### Deliverables:

- Draft and Final GROSS grant application.
- Draft and Final Fact Sheet
- Draft letter of support for the project.

### Fees:

- The scope of work is on a time-and-materials basis not-to-exceed \$5,000.

Exhibit A

The below signatures attest to the agreement of each party to the above scope and fee as well as the enclosed Standard Provisions (Exhibit A).

Client:

**City of West Richland**

Name: Roscoe Slade III

Title: Public Works Director

Signature: 

Date: 7/14/2021

Consultant:

**Osborn Consulting, Inc.**

Name: Laura Ruppert

Title: Vice President

Signature: 

Date: 7/14/2021

## STANDARD PROVISIONS

### 1. Payments.

**1.1 Monthly Invoices.** Monthly invoices shall be issued for all Services performed under this *Agreement*.

**1.1.1 Lump Sum.** Invoices for a lump sum contract are based on percentage of work completed; and the contract amount may be increased for any unanticipated event, which is beyond OCI's control and which increases the level of services required to complete Project.

**1.1.2 Time and Materials.** Invoices for a time and materials contract are based on the hourly rates referenced in the attached scope of work.

**1.1.3 Retainers.** Retainers shall be applied toward final invoice.

**1.2 Expenses.** Expenses include all out-of-pocket costs for technical, professional and clerical services and for transportation; meals and lodging; laboratory tests and analyses; telephone; printing, copying, and binding. Expenses are billed at 1.15 times invoice amount, and Client shall pay all governmental fees, permits and charges.

**1.3 Payment Date.** Invoices are due and payable within forty-five (45) days after date of invoice.

**1.4 Past Due Accounts.** Any invoice not paid within thirty (30) days after date of invoice shall bear interest at the maximum allowable rate permitted by law.

**1.5 Stop Work.** OCI may stop work on Project and withhold delivery of all work until Client's obligations then due and owing to OCI are paid in full.

**1.6 Disputes.** Invoices shall outline Services performed and all related charges and expenses. Disputes regarding an invoice shall be forwarded in writing to OCI within twenty (20) days of date of invoice. If Client does not dispute an invoice within the prescribed time, the invoice is deemed accurate.

**1.7 Estimates.** Estimated amounts for Services performed on an hourly or cost plus fee bases are only estimates and may not accurately reflect the ultimate charges to Client.

**2. Notice to Proceed.** This *Agreement* constitutes Client's notice to proceed with Services.

**3. Subconsultants.** With Client's approval, OCI may retain subconsultants to perform services for Project.

**4. Extra Work.** If Client desires work to be performed beyond the Services described in this *Agreement* ("*Extra Work*"), Client must authorize the *Extra Work* by signing a written supplement. If written supplement is impracticable, then a written or electronic statement authorizing the *Extra Work* is required.

**5. Delay of Project.** Clause Removed.

**6. Safety and Construction.** OCI is not responsible for construction means, methods, techniques, sequences of procedures, or safety precautions and programs related to work performed by contractors, subcontractors, or anyone else associated with Project.

**7. Use of Documents.** OCI retains ownership to all documents and work product under this *Agreement*, and Client may only use such documents and work product in connection with the Project.

**8. Professional Standards.** OCI shall perform Services according to the standard of care ordinarily exercised under similar conditions by similarly qualified

professionals who are currently practicing in the area where OCI is located. OCI makes no express or implied warranties.

**9. Indemnity.** OCI and Client shall indemnify and hold each other harmless from and against all claims, liabilities, actions, damages and expenses, including reasonable attorneys' fees, related to or arising out of their negligent acts or omissions in connection with the Project.

**10. Limitation of Liability.** Client agrees to require OCI be named as an additional insured for all insurance policies carried by contractors, subcontractors and suppliers on which Client has been or will be named as an additional insured. Regardless of the presence or absence coverage, OCI shall not be liable for loss or damage occasioned by delays beyond OCI's control, or for loss of earnings, loss of use or other incidental or consequential damages suffered by Client or others, however caused. OCI's liability hereunder, whether in tort or in contract, for any cause of action shall be limited as follows: (a) for insured liabilities arising out of OCI's negligence, to the amount of insurance then available to fund any settlement, award or verdict; (b) for uninsured liabilities, OCI will pay for items through liability coverage or out of pocket, to one hundred percent (100%) of the fee earned by OCI under this *Agreement*.

**11. Alternative Dispute Resolution.** Unresolved disputes, controversies and claims relating to performance of Services shall be initially referred to mediation.

**12. Attorneys' Fees.** If any proceeding is commenced relating to this *Agreement*, prevailing party is entitled to recover its reasonable attorneys' fees and costs.

**13. Termination.** This *Agreement* may be terminated upon thirty (30) days written notice to the other party. In such event, Client shall pay OCI for all Services performed and for all expenses incurred to and including date of termination. In addition, Client shall pay OCI to archive the project files.

**14. Dates.** All time periods refer to calendar days unless otherwise stated.

**15. Governing Law and Venue.** The laws of the state in which the OCI office that has primary responsibility for the Services is located shall govern this *Agreement*. Venue for all proceedings shall be in the county of said office.

**16. Survival.** The provisions of this *Agreement* shall survive its termination, and completion of Services.

**17. Complete Agreement.** This *Agreement* constitutes the complete and final understanding between the parties and may only be amended by written agreement between the parties.

RESOLUTION NO. 111-21

A RESOLUTION of the City of Richland authorizing an Interlocal Agreement between the cities of Richland, Kennewick, Pasco and West Richland for administration and funding of stormwater permit compliance work.

WHEREAS, in July 2019, the Washington State Department of Ecology issued the Eastern Washington Phase II Municipal Stormwater Permit (the "Permit"); and

WHEREAS, the Permit requires the cities of Richland, Kennewick, Pasco and West Richland (the "Cities") to participate in the implementation of a Stormwater Management Program Effectiveness Study (the "Study"); and

WHEREAS, the Department of Ecology's 2021-2023 Water Quality Stormwater Grant Program is a potential funding source for the required Study; and

WHEREAS, the Interlocal Cooperation Act, Chapter 39.34 RCW, authorizes local governments to jointly exercise their powers, privilege or authority for purposes of efficiency and mutual advantage; and

WHEREAS, the Cities have collaborated to select an engineering consultant and to negotiate a scope of work and budget for the preparation of the grant application; and

WHEREAS, West Richland will serve as the lead agency responsible for contracting with the consultant, applying for grant funding, and reporting the results; and

WHEREAS, the proposed four-way equal cost sharing arrangement between the Cities provides good value to the City of Richland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute an interlocal agreement with the cities of Kennewick, Pasco and West Richland for administration and funding of the Quad-City Stormwater Management Program Effectiveness Study.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

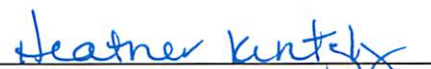
ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 7<sup>th</sup> day of September, 2021.

  
Ryan Lukson, Mayor

Attest:

  
Jennifer Rogers, City Clerk

Approved as to form:

  
Heather Kintzley, City Attorney