

## **INTERLOCAL COOPERATION AGREEMENT**

*Between*

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

*For*

### **Development of a Regional Algal Bloom Management and Response Plan**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into on this 18<sup>th</sup> day of February, 2022 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 “Parties”). This Agreement is made in conformance with and under the authority granted by RCW 39.34, the Interlocal Cooperation Act.

#### **I. Recitals**

WHEREAS, Richland, Kennewick, Pasco, and West Richland were granted Washington State Surface Water Right Permit S4-30976 on September 15, 2003 (hereinafter “Permit”); and

WHEREAS, the Parties use the Permit and other water rights to access the Columbia River for potable water supply. Richland, Kennewick and Pasco withdraw, treat, and deliver Columbia River water to their residents. West Richland purchases treated water provided by Richland for a substantial portion of its potable water supply; and

WHEREAS, in 2021, harmful algal blooms were detected and monitored in the Columbia River; and

WHEREAS, harmful algal blooms may release toxins that pose a risk to human health; and

WHEREAS, harmful algal blooms and their associated toxins are an emerging risk to water utilities across the United States, but at present are not regulated by the United States Environmental Protection Agency (EPA) or the Washington State Department of Health; and

WHEREAS, it is prudent for the Parties to prepare plans to monitor and respond to the possible impairment of their potable water supplies by a harmful algal bloom; and

WHEREAS, Richland has selected an engineering consultant and negotiated a scope of work and budget for this work; and

WHEREAS, the Interlocal Cooperation Act, Ch. 39.34 RCW, authorizes local governments such as the Parties 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 prepare a regional Quad-City Algal Bloom Management and Response Plan.

Section 2. Legal Entity

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

Section 3. Administration

Richland shall be the administrator for the purposes of this interlocal agreement and shall award and administer the consultant agreement contemplated under this Interlocal Cooperation Agreement. The proposed consultant agreement is attached as **Exhibit A**.

Section 4. Funding and Contributions

Consultant expenses shall be shared between Richland, West Richland, Pasco and Kennewick. Richland, Kennewick, and Pasco shall contribute an amount equal to 2/7 of the total consultant costs for this work. West Richland shall contribute an amount equal to 1/7 of the total consultant costs for this work. Richland shall issue invoices to West Richland, Pasco, and Kennewick for their respective share of the 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. Each Party shall own and receive its own copy of the regional Quad-City Algal Bloom Management and Response Plan produced as a result of this Agreement.

Section 6. Additional Resources

Richland, Kennewick, Pasco, and West Richland will provide staff support to complete data requests, meeting and training attendance, and analysis reviews as needed to efficiently administer the plan preparation.

Section 7. Duration

This Agreement shall expire twelve (12) months after the close-out of the consultant agreement. All obligations to pay the respective shares to fund the plan update shall survive termination of this Agreement.

Section 8. Termination

Notwithstanding the obligation to pay the respective shares surviving termination in Section 7 above, this Agreement may be partially terminated by a Party's written notice to the others, which notice shall be effective thirty (30) days after last received. The remaining Parties may choose to provide a written modification to this Agreement or continue to operate under this Agreement without the noticing Party.

Section 9. 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 10. 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 11. Modification

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

Section 12. 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 this Agreement or the applications of the remainder of this Agreement shall not be affected. To this end, the terms and conditions of this Agreement are declared severable.

Section 13. 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 14. Waiver

No waiver, by any 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 term or condition, or any other term or condition of this Agreement.

Section 15. Authority to Execute.

Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity represents and warrants that he or she is fully authorized to so execute and deliver this agreement on behalf of the entity or party for which he or she is signing. The parties hereby warrant to each other that each has full power and authority to enter into this agreement and to undertake the actions contemplated herein, and that this agreement is enforceable in accordance with its terms.

Section 16. Counterpart Originals.

Execution of this Agreement and any amendment or other document related to this Agreement may be by electronic signature and in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one whole 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**

  
\_\_\_\_\_  
Jon Amundson, ICMA-CM, City Manager

Attest:

  
\_\_\_\_\_  
Jennifer Rogers, City Clerk

Approved as to form:

  
\_\_\_\_\_  
Heather Kintzley, City Attorney

**CITY OF WEST RICHLAND**

  
\_\_\_\_\_  
Brent Gerry, Mayor

Attest:

  
\_\_\_\_\_  
Stephanie Haug, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Bronson Brown, City Attorney

**CITY OF KENNEWICK**

  
\_\_\_\_\_  
Marie Mosley, City Manager

Attest:

  
\_\_\_\_\_  
Terri L. Wright, City Clerk


Approved as to form:

  
\_\_\_\_\_  
Lisa Beaton, City Attorney

**CITY OF PASCO**

  
\_\_\_\_\_  
Dave Zabell, City Manager

Attest:

  
\_\_\_\_\_  
Debby Barham, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Eric Ferguson, City Attorney

**Exhibit A to Interlocal Agreement for Regional  
Algal Bloom Management and Response Plan**

Contract No. \_\_\_\_\_



**AGREEMENT BETWEEN CITY AND CONSULTANT**

**Water Algal Bloom Management & Response Plan**

This Agreement is entered into this \_\_\_\_\_ day of February, 2022 (“Effective Date”) by and between the **City of Richland** (“**City**”), a Washington municipal corporation located at 625 Swift Blvd. Richland, WA 99352, and **RH2 Engineering, Inc** (“**Consultant**”), a Washington for-profit corporation with service at 114 Columbia Point Drive, Richland, WA. **City** and **Consultant** are referred to individually herein as a “Party” and collectively herein as the “Parties.”

**WITNESSETH:**

**1. SCOPE OF WORK**

- a. Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the work outlined in Exhibit A. In performing these services, Consultant shall at all times comply with all federal, state and local statutes, rules and ordinances applicable to the performance of such services. In addition, these services and all duties incidental or necessary therefore, shall be performed diligently and completely and in accordance with professional standards of conduct and performance. All services performed under this Agreement will be conducted solely for the benefit of the City and will not be used for any other purpose without written consent of the City.
- b. This Agreement consists of this Agreement and other documents listed below. These form the entire Agreement between the Parties, and are fully integrated into this Agreement as if stated or repeated herein. In the event of a conflict between documents, the order of precedence will be the order listed below. An enumeration of the Agreement documents is set forth below (mark all that apply):
  1.  City of Richland Agreement No. \_\_\_\_\_
  2.  Exhibit A: Scope of Work
  3.  City Richland Solicitation No.
  4.  Exhibit B: Solicitation No. \_ proposal response submitted by Consultant dated .
  5.  Additional Documents – Request for Services Waiver RFQ Process.

**2. TIME FOR COMPLETION**

Consultant shall not begin any work under the terms of this Agreement until authorized in writing by the City. Consultant agrees to use best efforts to complete all work described under this Agreement by July 31, 2022.

**3. TERM**

The term of this Agreement shall commence on the Effective Date identified above and end at midnight on July 31, 2022.

**4. PAYMENT**

- a. Services rendered by Consultant under this Agreement will be paid at the rate set forth in Exhibit A Scope of Work, but in no event shall the total compensation for services rendered under this Agreement exceed **Eighty Thousand Dollars (\$80,000.00)**, including all fees and those reimbursable expenses listed in Exhibit A.
- b. City shall pay Consultant for services rendered after receipt of a detailed invoice. Invoices not in dispute by the City will be paid net thirty (30) days and shall reference the contract number and/or purchase order applicable to the work. The invoice shall provide sufficient detail on the work being billed and include detailed receipts for any invoices.
- c. Partial payments to cover the percentage of work completed may be requested by Consultant. These payments shall not be more than one (1) per month.
- d. Pre-approved travel, meals and lodging will be reimbursed at cost and only when consultant travels at least 150 miles per one way trip. Reimbursable expenses are limited to the following: coach airfare, ground transportation (taxi, shuttle, car rental), hotel accommodations as provided below, personal or company vehicle use at the then-current federal mileage rate, and meals at the current federal per-diem meal allowance or up to the current federal per-diem with detailed receipts, no alcohol, and a 20% maximum gratuity.
  - i. Hotel accommodations: eligible lodging expenses include the room cost only; itemized receipts must be provided for hotel reimbursements.
  - ii. Hotel reimbursement is limited to the single room rate. If two or more consultants are sharing a room, reimbursement is allowable for only one consultant at the double room rate.
  - iii. The maximum reimbursement should be limited to the best discount rate available and allowable that meets traveler's business needs and basic needs for health, safety and cleanliness. Non-smoking rooms are authorized even if they are more expensive.
- e. Reimbursement for extra services/reimbursable expenses are not authorized under this Agreement unless detailed in the Scope of Work or agreed upon in writing as a modification to this Agreement.
- f. Consultant will allow access to the City, State of Washington, Federal Grantor Agency, Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions. Unless otherwise provided, said records must be retained for three (3) years from the date of receipt of final payment. If any litigation, claim, or audit arising out of, in connection with, or relating to this Agreement is initiated before the expiration of the three-year period, the records shall be retained until such litigation, claim, or audit involving the records is completed.

## **5. INDEPENDENT CONTRACTOR**

Consultant, and any and all employees of Consultant or other persons engaged in the performance of any work or services required of Consultant under this Agreement, are independent contractors and shall not be considered employees of the City. Any and all claims that arise at any time under any Workers' Compensation Act on behalf of said employees or

other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of Consultant's employees or other persons engaged in any of the work or services required to be provided herein, shall be the sole obligation and responsibility of Consultant.

## **6. OWNERSHIP OF DOCUMENTS**

Any and all data, analyses, documents, photographs, plans, designs, drawings, specifications, surveys, films, documents, reports and other work products created, prepared, produced, constructed, assembled, made, performed, or otherwise produced by Consultant or Consultant's subcontractors for delivery to the City pursuant to this Agreement shall become the sole and absolute property of the City upon completion of the services and payment in full of all payment due to Consultant of the fees set forth in this Agreement. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the City at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which Consultant uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the City is owned by Consultant and is not "work made for hire" within the terms of this Agreement. Consultant will ensure that all independent contractors have written agreements in place that transfers ownership of all Intellectual Property created by them or provided by them to the City.

The City may make or permit to be made any modifications to the plans and specifications without the prior written authorization of Consultant. The City agrees to waive any claim against Consultant arising from any unauthorized reuse of the plans and specifications, and to indemnify and hold Consultant harmless from any claim, liability or cost arising or allegedly arising out of any reuse of the plans and specifications by the City or its agent not authorized by Consultant.

## **7. TERMINATION**

- a. This Agreement may be terminated by either Party upon thirty (30) days' written notice. In the event this Agreement is terminated by Consultant, the City shall be entitled to reimbursement of costs occasioned by such termination. In the event the City terminates this Agreement, the City shall pay Consultant for the work performed, which shall be an amount equal to the percentage of completion of the work as mutually agreed between the City and Consultant.
- b. If any work covered by this Agreement shall be suspended or abandoned by the City before Consultant has completed the assigned work, Consultant shall be paid an amount equal to the costs incurred up to the date of termination or suspension as mutually agreed upon between the City and Consultant.

## **8. AVAILABILITY OF RECORDS FOR PUBLIC INSPECTION**

- a. As a public contract, all records prepared, generated or used by Consultant or its agents, employees and subcontractors relating to this Agreement and associated work (hereinafter "public records") may be subject to disclosure under the Washington State Public Record Act, Chapter 42.56 RCW.
- b. Contractor shall maintain and retain all such public records in a manner that is readily accessible for a minimum term of no less than three (3) years following completion of the contract work. City shall have the right to timely review all such public records upon

request. Contractor shall provide copies of any public records requested by City within thirty (30) calendar days of City's request. If City requests that copies of public records be provided to City in an electronic format, said records shall be provided at no cost to City. If paper copies are requested by City, City shall pay \$.10 per page. Payment for paper copies shall be rendered to Consultant within twenty (20) calendar days of receipt.

- c. All records subject to a public disclosure request will be provided to a requester unless exempted from disclosure by law. The City's decision to exempt or redact any public record shall be based only upon valid exemptions that apply to the City. City will not refrain from disclosing any record under an exemption that may be personal to Consultant. In the event Consultant objects to release of any public record under this Agreement, Consultant may seek judicial approval to prevent such disclosure at Consultant's sole expense. City shall neither aid nor interfere with Consultant's request for an injunction to prevent disclosure of any public record under this Agreement.
- d. Consultant shall insert this provision in all contracts with subcontractors or agents providing services relating to this Agreement.

**9. DISPUTE RESOLUTION**

- a. The City and Consultant agree to negotiate in good faith for a period of thirty (30) days from the date of notice of all disputes between them prior to exercising their rights under this Agreement, or under law.
- b. All disputes between the City and Consultant not resolved by negotiation between the Parties may be arbitrated only by mutual agreement of the City and Consultant. If not mutually agreed to resolve the claim by arbitration, the claim will resolve by legal action.

**10. DEBARMENT CERTIFICATION**

Consultant certifies that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this contract by any federal or state department or agency. Further, Consultant agrees not to enter into any arrangements or contracts related to completion of the work contemplated under this Agreement with any party that is on the "General Service Administration List of Parties Excluded from Federal Procurement or Non-Procurement Programs" which can be found at: [www.sam.gov](http://www.sam.gov) and <https://secure.lni.wa.gov/verify/>

**11. VENUE, APPLICABLE LAW AND PERSONAL JURISDICTION**

In the event that either Party deems it necessary to initiate a legal action to enforce any right or obligation under this Agreement, the Parties agree that any such action shall be initiated in the Superior Court of the State of Washington situated in Benton County. The Parties agree that all questions shall be resolved by application of Washington law, and that the Parties to such action shall have the right of appeal from such decision of the Superior Court in accordance with the laws of the State of Washington. Consultant hereby consents to the personal jurisdiction of the Superior Court of the State of Washington situated in Benton County.

**12. ATTORNEY'S FEES**

The Parties agree that should legal action be necessary to enforce any of the provisions of this Agreement, that the substantially prevailing Party will be awarded its reasonable attorney's fees and costs in action, including costs and attorney's fees on appeal if appeal is taken.



### 13. **INSURANCE**

Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees.

- a. No Limitation. Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- b. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:
  1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
  2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
  3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
  4. Professional Liability, Errors or Omissions insurance appropriate to the Consultant's profession. Coverage shall be provided if Consultant is providing services under this Agreement as a licensed professional, including, but not limited to, engineers, architects, accountants, surveyors, and attorneys.
- c. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:
  1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
  2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.
  3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
- d. Other Insurance Provisions. Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of Consultant's insurance and shall not contribute with it.

- e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- f. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of Consultant before commencement of the work.
- g. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two (2) business days of Consultant's receipt of such notice.
- h. Failure to Maintain Insurance. Failure on the part of Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due Consultant from the City.
- i. Public Entity Full Availability of Consultant Limits. If Consultant maintains higher insurance limits than the minimum shown above, the City shall be insured for the full available limits of the Commercial General and Excess or Umbrella liability maintained by Consultant, irrespective of whether such limits maintained by Consultant are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by Consultant.

#### **14. INDEMNIFICATION / HOLD HARMLESS**

- a. Consultant shall defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the willful or negligent acts, or alleged willful or alleged negligent acts, errors or omissions of the Consultant or the Consultant's employees or agents in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
- b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

#### **15. STANDARD OF CARE**

The professional services will be furnished in accordance with the care and skill ordinarily used by members of the same profession practicing under similar conditions at the same time and in the same locality.

**16. SUCCESSORS OR ASSIGNS**

All of the terms, conditions and provisions hereof shall inure to the benefit of and be binding upon the Parties hereto, and their respective successors and assigns; provided, however, that no assignment of the Agreement shall be made without written consent of the non-assigning Party, which may be given in the non-assigning Party's sole discretion.

**17. NOTICES**

Any notices required under this Agreement will be in writing, addressed to the appropriate Party at the address which appears below (as modified in writing from time to time by such party), and given by electronic submission, by facsimile personally, by registered or certified mail, return receipt requested, or by nationally recognized overnight courier service. All notices shall be effective upon the date sent.

Purchasing Manager  
City of Richland  
625 Swift Blvd., MS-11  
Richland, WA 99352  
Email: [purchasing@ci.richland.wa.us](mailto:purchasing@ci.richland.wa.us)  
Phone: (509) 942-7710  
Fax: (509) 942-7397

Contact Name: Paul Cross  
Name of Firm: RH2 Engineering, Inc  
Address: 114 Columbia Point Drive  
Address: Richland, WA 99352  
Email: [pcross@rh2.com](mailto:pcross@rh2.com)  
Phone Number: 509-866-6767  
Fax Number:

**18. EQUAL OPPORTUNITY AGREEMENT**

Consultant agrees that Consultant will not discriminate against any employee or job applicants for work under this Agreement for reasons of race, sex, nationality, religious creed, or sexual orientation.

**19. SEVERABILITY**

If any provision of this Agreement conflicts with applicable law, or its application is found to be invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected, and to this end, the terms of this Agreement are declared to be severable.

**20. AMENDMENTS**

All amendments must be in writing and be approved and signed by both Parties.

**21. CHANGE IN LAW**

The Parties hereto agree that in the event legislation is enacted or regulations are promulgated, or a decision of court is rendered, or any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation is published that affects or may affect the legality of this Agreement or any part thereof or that materially and adversely affects the ability of either Party to perform its obligations or receive the benefits intended hereunder ("Adverse Change in Law"), then within fourteen (14) calendar days following written notice by either Party to the other Party of such adverse change in law, the Parties shall meet to negotiate in good faith an amendment which will carry out the original intention of the Parties to the extent possible. If, despite good faith attempts, the Parties cannot reach agreement upon an amendment within sixty (60) calendar days after commencing negotiation, then this Agreement may be terminated by either Party as of the

earlier of: (i) the effective date of the adverse change in law, or (ii) the expiration of a period of sixty (60) days following written notice of termination provided by one Party to the other.

**22. CONFIDENTIALITY**

In the course of performing under this Agreement, Consultant, including its employees, agents or representatives, may receive, be exposed to, or acquire confidential information. Confidential information may include, but is not limited to, patient information, contract terms, sensitive employee information, or proprietary data in any form, whether written, oral, or contained in any computer database or computer readable form. Consultant shall: i) not disclose or sell confidential information except as permitted by this Agreement; (ii) only permit use of such confidential information by employees, agents and representatives having a need to know in connection with performance under this Agreement; and (iii) advise each of its employees, agents, and representatives of their obligations to keep such information confidential.

**23. CHANGES OF WORK**

- a. When required to do so, and without any additional compensation, Consultant shall make such changes and revisions in the completed work of this Agreement as necessary to correct or revise any errors, omissions, or other deficiencies in the design, drawings, specifications, reports, and other similar documents which Consultant is responsible for preparing or furnishing under this Agreement.
- b. Should the City find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, Consultant shall make such revisions as directed by the City. This work shall be considered as Extra Work and will be paid for as herein provided under Section 24, Extra Work.

**24. EXTRA WORK**

The City may desire to have Consultant perform work or render additional services within the general scope of this Agreement. Such work shall be considered as extra work and will be specified in a written supplement to this Agreement which will set forth the nature of the scope, schedule for additional work, additional fees and the method of payment. Work under a supplemental Agreement shall not proceed until authorized in writing by the City.

**25. ENTIRE AGREEMENT**

This Agreement contains the entire agreement of the Parties hereto and supersedes all previous understandings and agreements, written and oral, with respect to this transaction. Neither Party shall be liable to the other for any representations made by any person regarding the terms of this Agreement, except to the extent that the same are expressed in this Agreement.

**26. AUTHORITY TO EXECUTE**

Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity represents and warrants that he or she is fully authorized to so execute and deliver this Agreement on behalf of the entity or party for which he or she is signing. The Parties hereby warrant to each other that each has full power and authority to enter into this Agreement and to undertake the actions contemplated herein, and that this Agreement is enforceable in accordance with its terms.

**27. COUNTERPART ORIGINALS**

Execution of this Agreement and any amendment or other document related to this Agreement may be by electronic signature and in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one whole agreement.

*(Signature page to follow)*

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

CITY OF RICHLAND

CONSULTANT

\_\_\_\_\_  
Jon Amundson, ICMA-CM  
City Manager

\_\_\_\_\_  
Signature

Attest:

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Jennifer Rogers, City Clerk

\_\_\_\_\_  
Title

Approved as to form:

\_\_\_\_\_  
Heather Kintzley, City Attorney

**EXHIBIT A: Detailed Scope of Work**

**See Scope of Work attached.**

**EXHIBIT A**  
**Scope of Work**  
**City of Richland**  
**Algal Bloom Management and Response Plan**  
January 2022

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## **Background**

The City of Richland (City) retained RH2 Engineering, Inc., (RH2) to assist in the preparation of an Algal Bloom Management and Response Plan (Plan) for the Quad Cities (Richland, West Richland, Pasco and Kennewick, hereinafter “Cities”) following the guidance of DOH’s 331-654 *Dealing with Algal Blooms: Time to Make a Plan* and modeled after the *Cyanotoxin Monitoring Plan* developed by Eugene Water and Electric Board (EWEB).

As part of the plan, the City would like RH2 to develop background materials that summarize what is known about cyanobacteria and cyanotoxins in the vicinity, how it impacts the vulnerability of the drinking water supplies for the four water purveyors and to document what is being done to monitor and predict algal blooms this upcoming season. The Washington State Department of Health (DOH) is preparing to do a baseline study in 2022 that includes monitoring raw water supplies at the Richland Intake for temperature, dissolved oxygen, pH, nutrients, chlorophyll, and phycocyanin. Benton-Franklin Health District (BFHD) will use an enzyme-linked immunosorbent assay (ELISA) laboratory procedure to test for microcystins and anatoxin-a. Testing will be done every two weeks and the Cities participants will collect the samples, deliver them to BFHD and pay for the laboratory efforts.

The plan will also include a raw and finished water monitoring plan at the intakes and water treatment plants at Richland, Pasco, and Kennewick that describes sampling procedures, establishes a sampling schedule, identifies laboratories available, and describes how to use Hazen-Adams CyanoTOX spreadsheets to manage the cyanobacteria and cyanotoxins present. DOH plans to obtain funding to support EPA certified testing at King County in the event of a bloom and when the purveyors will need to operate and respond to the vulnerability depending upon the level of risk.

The plan will also include a crisis communications and a joint and cooperative operational strategy for the Quad Cities that aligns with the health advisory level identified.

## **Project Assumptions**

The following is a list of assumptions used in preparing this Scope of Work:

- *Cities and Agency reviews will be performed and document requests fulfilled in a timely fashion. RH2 is not responsible for delays attributed to the performance of others.*
- *RH2 will perform the services outlined in this Scope of Work to the level of effort identified in the accompanying Fee Estimate.*
- *Project submittals, contract documents, invoices, and materials will be transmitted between the project team and the City via email.*



- *All RH2 deliverables will be provided to the Cities in electronic PDF.*
- *Meetings are assumed to be virtual via Microsoft Teams.*

### **Task 1 – Project Management**

**Objective:** Manage the RH2 project team, files, and records. Monitor the Scope of Work, schedule, and budget. Prepare and provide monthly invoices with progress reports documenting work completed. Communicate project progress with the City.

**Approach:**

- 1.1 Provide direction, coordination, and oversight to the RH2 project team.
- 1.2 Document and retain information generated during the execution of the project.
- 1.3 Prepare monthly invoices and budget status summaries.

**RH2 Deliverables:**

- Schedule, scope, and budget administration and management.
- Project team and resource management.
- Monthly invoices with progress reporting (electronic copies via email).
- Communication with the City.

### **Task 2 – Prepare Algal Bloom Management and Response Plan**

**Objective:** Prepare a management and response plan to mitigate cyanobacteria and cyanotoxins in the Cities' source water to better protect Cities supplies.

**Approach:**

- 2.1 Attend a kickoff meeting with the Cities to review the history of the cyanobacteria detections in 2021, the impact on operations, and current treatment response. *Kickoff meeting will establish points of contact for each of the Cities for both review and data collection purposes.*
- 2.2 Prepare background materials on cyanobacteria and cyanotoxins in Columbia River waters.
- 2.3 Describe the Health Advisory Levels (HAL) at which customers will be at risk and actions will be required in response to cyanobacteria and cyanotoxins being present and match up with other Level 1 through Level 4 emergencies per the Washington State Department of Health (DOH) guidelines.
- 2.4 Describe the vulnerability of the Cities water supplies to cyanobacteria and cyanotoxins and the water quality parameters that may indicate conditions suitable for algal blooms.
- 2.5 Review the six existing treatment processes at Richland (2), Pasco (2), and Kennewick (2) vulnerable to cyanobacteria and cyanotoxins and describe the strengths and weaknesses of each treatment plant for removing or eliminating cyanobacteria, algae, and cyanotoxins, and identify treatment adjustments in the event of a bloom.

- 2.6 Describe potential capital improvements needed to optimize existing treatment and identify additional needs.
- 2.7 Meet with Cities to review and discuss the draft treatment response plan. Review Cities comments and finalize the treatment response plan.
- 2.8 Document the current multi-jurisdictional efforts and pilot studies being planned for source water observation and monitoring. Identify holes in the pilot study that are recommended by DOH's 331-654 *Dealing with Algal Blooms: Time to Make a Plan*, but are not currently being planned for implementation. Prepare a Cities-based supplement source water observations and monitoring plan.
- 2.9 Prepare a raw and finished water monitoring plan at the intakes and water treatment plants that describes sampling procedures, establishes a sampling schedule, identifies laboratories available, and describes how to use Hazen-Adams CyanoTOX spreadsheets to manage the cyanobacteria and cyanotoxins present.
- 2.10 Meet with Cities staff to review and discuss the monitoring plans. Review Cities comments and finalize the monitoring plans.
- 2.11 Prepare HAL-based public notice templates to use for customer communications. Meet with Cities staff to develop a draft communications plan for crisis management if a "do not use" health advisory is required. Coordinate the management and communications plans with the other Cities approach to emergency response in order to provide coordinated responses to the public. Finalize plan based upon Cities comments.
- 2.12 Compile a final Algal Bloom Management and Response Plan. Append the Plan with contact lists, references, resources, and sampling and handling procedures.

**Assumptions:**

- *The Plan will be modeled after Eugene Water and Electric Board's (EWEB) Cyanotoxin Monitoring Plan, which will be modified to be in compliance with DOH 331-654.*
- *A kickoff and up to three review meetings with the Cities are planned. Agendas and minutes will be prepared and distributed electronically by RH2.*

**Provided by Cities:**

- Description, list, or block diagram of existing water treatment processes.
- As-built drawings of the treatment facilities site plan and mechanical layout.
- List of monitoring locations for cyanobacteria bloom indicators.
- EWEB Cyanotoxin Monitoring Plan. *(Provided)*

**RH2 Deliverables:**

- Draft treatment response plan with final included in overall Plan.

- Draft Cities-based supplement source water observations and monitoring plan with final included in overall Plan.
- Draft raw and finished water monitoring plan with final included in overall Plan.
- HAL-based public notices to use for customer communications in Word format for copying onto Cities letterheads.
- Draft communications plan with final included in overall Plan.
- Draft and final Algal Bloom Management and Response Plan.

### **Schedule**

It is anticipated that Task 2 will begin within two (2) weeks of a signed authorization and will require up to eight (8) weeks to complete a draft plan with an additional six (6) weeks to finalize the plan once Cities comments have been received.

**EXHIBIT B**

Fee Estimate

City of Richland

Algal Bloom Management and Response Plan

Jan-22

Description		Total Hours	Total Labor	Total Expense	Total Cost
Classification					
Task 1	Project Management	36	\$ 7,586	\$ 343	\$ 7,929
Task 2	Prepare Algal Bloom Management and Response Plan	360	\$ 66,390	\$ 4,119	\$ 70,509
<b>PROJECT TOTAL</b>		<b>396</b>	<b>\$ 73,976</b>	<b>\$ 4,462</b>	<b>\$ 78,438</b>

<b>EXHIBIT C</b>		
<b>RH2 ENGINEERING, INC.</b>		
<b>2022 SCHEDULE OF RATES AND CHARGES</b>		
<b>RATE LIST</b>	<b>RATE</b>	<b>UNIT</b>
Professional I	\$153	\$/hr
Professional II	\$166	\$/hr
Professional III	\$182	\$/hr
Professional IV	\$198	\$/hr
Professional V	\$210	\$/hr
Professional VI	\$227	\$/hr
Professional VII	\$241	\$/hr
Professional VIII	\$252	\$/hr
Professional IX	\$252	\$/hr
Control Specialist I	\$138	\$/hr
Control Specialist II	\$149	\$/hr
Control Specialist III	\$164	\$/hr
Control Specialist IV	\$180	\$/hr
Control Specialist V	\$190	\$/hr
Control Specialist VI	\$205	\$/hr
Control Specialist VII	\$218	\$/hr
Control Specialist VIII	\$229	\$/hr
Technician I	\$114	\$/hr
Technician II	\$126	\$/hr
Technician III	\$144	\$/hr
Technician IV	\$155	\$/hr
Technician V	\$168	\$/hr
Technician VI	\$184	\$/hr
Technician VII	\$200	\$/hr
Technician VIII	\$209	\$/hr
Administrative I	\$76	\$/hr
Administrative II	\$89	\$/hr
Administrative III	\$105	\$/hr
Administrative IV	\$126	\$/hr
Administrative V	\$147	\$/hr
CAD/GIS System	\$27.50	\$/hr
CAD Plots - Half Size	\$2.50	price per plot
CAD Plots - Full Size	\$10.00	price per plot
CAD Plots - Large	\$25.00	price per plot
Copies (bw) 8.5" X 11"	\$0.09	price per copy
Copies (bw) 8.5" X 14"	\$0.14	price per copy
Copies (bw) 11" X 17"	\$0.20	price per copy
Copies (color) 8.5" X 11"	\$0.90	price per copy
Copies (color) 8.5" X 14"	\$1.20	price per copy
Copies (color) 11" X 17"	\$2.00	price per copy
Technology Charge	2.50%	% of Direct Labor
Mileage	\$0.560	price per mile (or Current IRS Rate)
Subconsultants	15%	Cost +
Outside Services	at cost	

Rates listed are adjusted annually.



## Request for Services Waiver RFQ Process

Project: Water Algal Bloom Management & Response Plan CIP Project # \_\_\_\_\_

Services to be Rendered: Prepare algal management plan and update emergency response plan

Anticipated Cost of Services: \$80,000

Desired Consultant: RH2 Engineering Inc

All contracts that have an estimated cost in excess of \$50,000 must use a formal Request for Qualifications (RFQ) process. The RMC 3.04.060 Services, Section D.3.a and E.2.a allows the City Manager to waive the formal RFP process when the following criteria are met:

- Quantifiable costs of delay in using RFQ process are likely to outweigh higher quality performance expected from the RFQ process.

**Provide a brief explanation** for the request and how the criteria has been met. If appropriate, provide examples of previous consultant work, etc.

Explanation:

RH2 was selected through a competitive RFQ process in 2021 to provide a Risk and Resilience update, and the update to our Emergency response plan. RH2 has produced the new plan; however, the City requires an additional response plan to algal blooms as this has become an urgent matter requiring timely completion. Based off the 2021 Algal bloom, we need a response plan in place prior to the possible emergence of an algal bloom in May or June. Given this timeline, the City does not have the time needed to issue a new competitive solicitation and go through the selection process in order to have a consultant begin this work. This would push the City past the window needed to be prepared for the next Algal bloom event. Since RH2 is familiar with our systems and needs, it is in the best interest of the City to continue to use RH2 so that we are able to meet our deadlines and be in compliance.

Waiver Recommended by:

  
\_\_\_\_\_

Department Director

February 2, 2022

Date

Approved by:

  
\_\_\_\_\_

Purchasing Manager

February 2, 2022

Date

Approved by:

  
\_\_\_\_\_

City Manager

February 2, 2022

Date

NOTE: This waiver is for the selection process only; all contracts in excess of \$50,000 require City Council approval.