

CITY OF BLAINE
PROFESSIONAL SERVICES AGREEMENT

Design and Construction Management Support
Switch Farm Project

THIS AGREEMENT is between the City of Blaine, a municipal corporation (hereinafter referred to as “City”) and Braaksma> (hereinafter referred to as “Consultant”).

W I T N E S S E T H:

1. SCOPE

Consultant agrees to provide City with engineering services and construction management support as detailed in letter dated April 27, 2021 and incorporated herein by this reference.

2. TERM

This Agreement shall commence on May 1, 2021 and will terminate on December 31, 2022 unless extended by separate amendment to this Agreement.

3. COMPENSATION, INVOICING, PAYMENT

A. City shall pay Consultant on a time and material basis not to exceed \$71,850 for completed work and services rendered under this Agreement. The City agrees to reimburse the Consultant for work done prior to the effective date of the contract. Pre-engineering work was completed in March to develop the scope of the current project. City shall not pay Consultant separately for indirect or normal business overhead costs (e.g., office rental, office supplies, postage, telephone, fax, business insurance, office utilities, routine correspondence preparation, invoicing, or payment receipt processing and accounting).

B. Consultant shall submit monthly invoice statements to Public Works Department / 1200 Yew Avenue / Blaine, WA 98230 and shall include the following information:

1. For direct professional services:
 - a. An itemized short description of the task performed and the specific time period,
 - b. The name(s) of the corresponding person(s) performing the task,
 - c. The corresponding hourly reimbursement rate(s) of the person(s) performing the task,
 - d. The corresponding hours, to the nearest quarter of an hour, spent performing each task,
 - e. Work task subtotal cost (hours x hourly rate), and
 - f. Subtotal for direct professional services.
2. For any other direct charges:
 - a. Qualified mileage charges: A short description of the trip’s purpose, date, mileage for the trip, mileage reimbursement rate, and total charge (mileage x rate).
 - b. All other charges: An itemized short description explaining the charge, the reimbursable cost, and a subtotal of all such charges.
 - c. Subtotal for indirect or other charges.
3. Any past-due amounts.
4. Uninvoiced balance remaining on each work task.
5. Total amount of the invoice.

City shall review these submitted invoices and make payment based thereon for work completed to City’s satisfaction. City shall pay Consultant all undisputed amounts within 30 days of receipt of Consultant’s invoice. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Services. City shall promptly notify Consultant of any disputed invoice amounts.

4. RELATIONSHIP OF PARTIES

Consultant and its personnel shall act as independent contractors and not as employees of City. As such, they have no authority to bind City or control employees of City, contractors, or other entities. This Agreement does not create a partnership or joint venture between Consultant and City.

5. PROJECT OVERSIGHT

Within the performance of these duties, Consultant shall work under the direction of the Public Works Director. Consultant specifically understands that no City employee other than the Public Works Director is authorized to direct the work of Consultant unless the Public Works Director designates in writing another representative of City to provide such direction. The Public Works Director may, at any time, issue written directions within the general scope of this Agreement. If any such direction causes an increase or decrease in the cost of this Agreement or otherwise affects any other provision of this Agreement, then Consultant shall immediately notify the Public Works Director and take no further action concerning those written directions until such time as the parties have executed a written change order.

6. LICENSE AND TAXES

Consultant shall possess a current Blaine Business License and any regulatory license(s) required to fulfill its obligations under this Agreement. Furthermore, Consultant agrees to pay when due all taxes, assessments, levies or tariffs.

7. INSURANCE

Prior to and during the performance of the work covered by this Agreement, Consultant shall provide to City evidence that it has obtained and maintains in full force and effect during the term of this Agreement:

- (a) A policy of professional insurance, providing coverage of at least One Million Dollars (\$1,000,000) against professional liability for errors and omissions in connection with the work to be performed by Consultant under this Agreement;
- (b) Workers' Compensation Insurance as required by law;
- (c) Employer's Liability Insurance (bodily injuries) with a limit of One Hundred Thousand Dollars (\$100,000) per occurrence with an insurance company authorized to write such insurance in Washington State; and
- (d) Comprehensive General Liability Insurance and Automobile Liability Insurance covering all owned and non-owned automobiles and vehicles used by or on behalf of Consultant with One Million Dollars (\$1,000,000) combined single limit for bodily injury and/or property damage per occurrence and an annual aggregate limit of Two Million Dollars (\$2,000,000).
- (e) Except with regard to the Professional Liability Insurance, each of the policies required herein **shall name the City as an additional insured. Furthermore, each policy of insurance required** herein shall (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to the City except upon forty-five (45) days' prior written notice from the insurance company to the City; (iii) contain an express waiver of any right of subrogation by the insurance company against the City and its elected officials, employees, or agent; (iv) expressly provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of Consultant which might otherwise result in a forfeiture of said insurance; and (v) in regard to physical property damage coverage, expressly provide that all proceeds shall be paid jointly to Consultant and City.
- (f) The consultant shall furnish the City with two (2) copies of Certificates of Insurance evidencing policies of insurance required herein. **The Certificate of Insurance shall specifically identify the**

name of the project. The Consultant shall maintain these policies as identified above for itself and its sub-consultants for the term of this Agreement and for a period of one year thereafter.

City shall be provided thirty (30) days' written notice of any cancellation of said professional liability insurance.

8. INDEMNIFICATION

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 acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. 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, hereunder 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.

City agrees to indemnify Consultant from any claims, damages, losses, and costs, including, but not limited to, reasonable attorney's fees and litigation costs, arising out of claims by third parties for property damage or bodily injury, including death, to the extent arising from the negligence or willful misconduct of City, or its employees or contractors (other than Consultant) in connection with the project.

9. WARRANTY

Consultant's services shall meet or exceed the standard for similar services performed by similarly licensed professionals performing work in Whatcom County, Washington.

10. REMEDIES

In the event of a default hereunder, or in the event that Consultant fails to perform the Project work in conformance with the standard of care set forth in Section 8, Warranty, then City may, in addition to exercising all of those rights and remedies available to it in law and equity, (i) terminate the Contract, (ii) cure any defect arising from Consultant's negligence, recklessness or willful misconduct and charge the cost of such repair back to Consultant, and/or (iii) seek specific remedial performance under the Contract at no additional cost to City. The remedies provided for herein are cumulative.

11. GENERAL CONDITIONS

A. **Reports and Information.** Consultant, at such times and in such forms as City may require, shall furnish City such reasonable periodic reports and documents as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection herewith, and any other matters covered by this Agreement.

Consultant will maintain accounting records in accordance with generally accepted accounting principles and practices to substantiate all invoiced amounts. All plans, drawings, reports, specifications, data, information or other documents provided to Consultant and/or prepared or assembled under this Agreement are and shall remain the sole property of City. Consultant explicitly waives all claims to propriety ownership and/or copyrights associated with any work product produced under this Agreement. Consultant shall not be held liable for reuse of documents or modifications thereof, including documents on electronic media. Consultant shall retain all such documentation generated in conjunction with the undertaking of the Project, and Consultant shall, upon completion, termination, expiration and/or conclusion of the Project, provide same to City.

- B. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and both parties acknowledge that there are not other agreements, written or oral, that have not been fully set forth in the text of this Agreement.
- C. **Amendments.** The parties hereby further agree that this Agreement cannot be amended or modified without the written concurrence of both parties.
- D. **Notices.** Any notices required to be given by City to Consultant or by Consultant to City shall be in writing and delivered to the parties at the following addresses by certified mail, return receipt requested:

Blaine Public Works
1200 Yew Avenue
Blaine WA 98230

Braaksma Engineering
711 Racine Street
Bellingham WA 98229

- E. **Waiver.** Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.
- F. **Compliance with State, Local and Federal Laws.** Consultant agrees to comply with all applicable local, state and federal laws in performance of all services under this Agreement.
- G. **Applicable Law; Venue.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington, and in the event of dispute, the venue of any action brought hereunder shall be in Whatcom County Superior Court.
- H. **Attorney Fees.** The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.
- I. **No Conflict of Interest.** Consultant covenants that it presently has no interest and shall not acquire an interest, directly or indirectly, which would conflict in any manner or degree with its performance under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by any of its subcontractors or sub-consultants.
- J. **Payment of Subcontractors and Sub-Consultants.** At the time of completion of the Work, Consultant agrees to certify to City that all subcontractors and sub-consultants have been paid in full. Consultant shall be responsible for the performance of any subcontractor or sub-consultant. All such subcontractors or sub-consultants shall possess all licenses and insurance as required by the laws of the State of Washington and as are required of Consultant under this Agreement. City may, in its sole discretion, withhold final payment until receipt of such certification.
- K. **Confidentiality.** Any reports, documents, questionnaires, records, computer files, information and/or data given to or prepared or assembled under this Agreement shall not be made available by Consultant to any individual or organization without prior written approval of City except as may be required by law, rule, regulation, or ordered by a court of competent jurisdiction. The provisions of this section shall survive the expiration or earlier termination of this Agreement. No reports, records, questionnaires, information, data, software programs and/or computer files provided by City or other documents produced in whole or in part by Consultant under this Agreement, shall be the subject of an application for copyright by or on behalf of Consultant.
- L. **Public Disclosure.** Correspondence, reports and other written work product will be generated during the course of the relationship created by this Agreement, and third parties may request such information pursuant to the Washington State Public Disclosure Act (RCW 42.17.250 *et. seq.*). Consultant agrees that in the event that such a request is filed, Consultant will promptly notify City. Consultant further agrees that it will not disclose any such requested material until at least

ten (10) business days after providing notification to City. This clause shall survive the termination or expiration of this Agreement.

M. Certification Regarding Debarment. By signing this agreement, the Consultant hereby certifies to the best of their knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

12. NONDISCRIMINATION

Consultant shall not discriminate in employment or services to the public on the basis of sex, race, color, creed, national origin, age, marital status, physical, mental or sensory handicap except an employment action based on a bona fide occupational qualification.

13. MEDIATION

In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, City and Consultant agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation, unless the parties mutually agree otherwise.

City and Consultant further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and so on at all sublevels, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

14. TERMINATION

- A. **For Convenience.** City may, but is not obligated to, unilaterally terminate this Contract for convenience if funds become unavailable, or if Consultant suffers a business operation discontinuity or interruption (e.g., bankruptcy, dissolution, merger, hostile takeover), or if any of the personnel that Consultant originally proffered to perform the Scope of Services changes.
- B. **For Non-Compliance.** City or Consultant may unilaterally terminate this Contract if either party fails substantially to perform, through no fault of the other, and does not commence correction within five (5) days of written notice and diligently complete the correction thereafter. Upon such termination, City will be entitled to reports showing the status of all matters upon which Consultant was advising City as of the effective date of termination.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the date and year indicated.

CONSULTANT:

Braaksma Engineers

Date

CITY OF BLAINE:

Michael Jones
City Manager

Date

DEPARTMENTAL APPROVAL:

Bernie Ziemianek, PE
Public Works Director

Date

ATTEST:

Samuel Crawford
City Clerk

Date



B R A A K S M A E N G I N E E R I N G
electrical engineering

April 27, 2021

City of Blaine
Department of Public Works
Attn: Bernie Ziemianek, Public Works Director
1200 Yew Avenue
Blaine, WA 98230

Hello Bernie:

Thank you for the opportunity to propose Engineering for improvements to Blaine Feeder Circuits near the Puget Sound Energy substation.

This work is a good match to our experience that includes power company operation and maintenance design (8 years at Puget Sound Energy (PSE)), Substation design, System Protection and switchgear specification (21 years of similar work completed by Braaksma Engineering).

Work proposed is a continuation of project review of Circuit 17 upgrade project, that was commenced in year 2020. The Circuit 17 upgrade project was intended to:

- Increase the capacity of Circuit 17 to accommodate load growth,
- Take some load from Circuit 16 which is reaching limits of capacity and is serving the geographic area with much anticipated load growth, and
- Provide back up of one circuit to another.

To achieve these parameters, a changed work scope has been proposed that includes items not initially within the Feeder Circuit 17 design.

Work completed thus far includes:

- A. Circuit load comparison based on 2016 study and projections.
- B. Schematic design sketch allowing any combination of circuits individually to provide back up to any other circuit near the Blaine Substation.
- C. Preliminary circuit redesign near the substation to relieve heavily loaded Circuit 16 of approximately 80A, and transfer that load to lightly loaded Circuit 11.
- D. Allow Circuit 11 originating from PSE Semiahmoo Substation, to back up any of the other Blaine circuits originating from PSE Blaine Substation (within circuit capacity limitations).
- E. Concept discussed with PSE ensuring compatibility with their growth plans within existing agreements.



Work to accomplish these goals is expected to be completed as a Switch Farm project, to install four pad mounted switches and rearranged feeder and distribution circuits in the area near the Blaine Substation.

This work will accommodate and include an upgrade of Circuit 17 from nominal 200A capacity to 600A capacity, with modification of that work expected as a separate project

Please see following pages for work scope estimate for and assumptions for this work.

The estimated time to complete the work based on City of Blaine request, is 539 hours, billable at \$71,850.00.

The total estimated fee includes

- *\$9715 for pre-engineering work completed in the month of March,*
- *\$5000 fee for survey completed as a subcontract,*
- *\$29,905 estimated fee for detailed engineering,*
- *\$27,230 estimated fee for construction support.*

I look forward to your review of this proposal. Please call me if you have questions or concerns at 360-734-7416.

Sincerely,

Gary Braaksma



Assumptions and Work Scope:

Switch Farm Engineering Work Scope descriptions

1. Pre-engineering:

Pre-engineering work includes preliminary coordination with PSE, development of Concept Circuit Map sketch with load projects, load projection calculations, preliminary circuit schematic sketch, preliminary plan drawing sketch, development of standardized pad mounted switch parameters for this application, and investigation of oversize vault options and preliminary determination of WSDOT right of way limitations. This work has been completed, billed for and paid as part of the Circuit 17 upgrade review project, except for work completed in March 2021.

2. Engineering/Construction Work Package:

- a. Coordination with PSE
- b. Coordination with WSDOT
- c. Coordination with Surveyor
- d. Surveyor Fees as Sub-Contract (\$5000 est)
- e. Meetings and Follow up
- f. Plan Drawing and Details
- g. Circuit Schematic
- h. Material Construction Specification

3. Construction Support:

- a. Assemble Bid Documents
- b. Bidder Correspondence
- c. Review Bid Packages
- d. Contract Documents, Earned Construction Units
- e. System Protective Settings (programming for the four VFI pad mounted switches)
- f. Field Verification and Support
- g. Contractor Payment Processing
- h. Contract Closeout

Assumptions for this work include:

- 1) Above estimate is quoted on a time and expense basis. Hourly rates are \$115 for engineer, \$90 for designer/specialist, \$60 for drafter. Rates include local travel (no mileage charge) and nominal office expenses. Large format copies will be billed at cost.
- 2) The City of Blaine will be kept apprised of work progress and will be billed monthly.
- 3) The volume of work may be adjusted per requirements and availability.
- 4) Work is expected to be mostly completed by engineer (Gary Braaksma, P.E.). Supporting work may be completed by Specialist or Drafter.
- 5) Work listed above and other services may be rendered at the City of Blaine's option on a time and expense basis at the above rates.



B R A A K S M A
E N G I N E E R I N G

- 6) This proposal will be accepted within one month and work will be completed monthly as required information received.
- 7) Payment is due monthly when billed. 1% interest fee per 30 days overdue accounts.