


CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: June 14, 2021

AGENDA ITEM:	
Contract Award – 2021 Pavement Preservation Project	
PREPARED BY:	DIRECTOR APPROVAL: 
Adam Benton, Project Engineer	
DEPARTMENT:	
Public Works, Engineering	
ATTACHMENTS:	
Certified Bid Tab, Vicinity Map	
BUDGET CODE:	AMOUNT:
11430090.548000, TB103	\$875,151.75
SUMMARY:	

The 2021 Pavement Preservation project will include 4,440 Tons of HMA, a 2-inch asphalt overlay, pavement repair, planing bituminous pavement, sidewalk ramp replacement to meet ADA standards, utility adjustment, channelization, restoration and other miscellaneous work.

These aforementioned improvements will be constructed at the following locations:

1. State Avenue between Grove and 80th Street.
2. 47th Avenue between 76th Street and 84th Street.

The project was advertised for a May 27, 2021 bid opening. The City received five bids as shown on the attached bid tabulation. The low bidder was Cadman Materials, Inc. at \$795,592.50. The engineer’s estimate was \$1,152,000.00. References have been checked and found to be satisfactory.

Contract Bid:	\$795,592.50
<u>Management Reserve:</u>	<u>\$79,559.25</u>
Total:	\$875,151.75

RECOMMENDED ACTION: Staff recommends that Council authorize the Mayor to sign and execute the 2021 Pavement Preservation project contract with Cadman Materials, Inc. in the amount of \$795,592.50 and approve a management reserve of \$79,559.25 for a total allocation of \$875,151.75.
RECOMMENDED MOTION: I move to authorize the Mayor to sign and execute the 2021 Pavement Preservation project contract with Cadman Materials, Inc. in the amount of \$795,592.50, and approve a management reserve of \$79,559.25, for a total allocation of \$875,151.75.



2021 Pavement Preservation Project Certified Bid Tab

Certified Bid Tab

5/27/2021

11430090.548000.TB103 2021 PAVEMENT PRESERVATION PROJECT

Apparent Low Bid

Schdule A				Engineer's Estimate		SRV Construction, Inc.		Granite Construction Company		Lakeside Industries, Inc.		Cadman Materials, Inc.		
Section	Item	Description	Quantity	Units	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price
1-04.4	1	MINOR CHANGES	FA	1.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
1-07.15	2	SPCC PLAN	LS	1.00	\$1,000.00	\$1,000.00	\$300.00	\$300.00	\$500.00	\$500.00	\$750.00	\$750.00	\$86.00	\$86.00
1-09.7	3	MOBILIZATION	LS	1.00	\$85,378.80	\$85,378.80	\$165,000.00	\$165,000.00	\$75,000.00	\$75,000.00	\$34,000.00	\$34,000.00	\$79,275.00	\$79,275.00
1-10.5	4	PROJECT TEMPORARY TRAFFIC CONTROL	LS	1.00	\$175,000.00	\$175,000.00	\$139,000.00	\$139,000.00	\$120,500.00	\$120,500.00	\$170,000.00	\$170,000.00	\$114,600.00	\$114,600.00
2-02.5	5	SAWCUT	LF	112.00	\$9.00	\$1,008.00	\$11.00	\$1,232.00	\$4.00	\$448.00	\$18.00	\$2,016.00	\$4.25	\$476.00
2-02.5	6	REMOVAL OF CURB AND GUTTER	LF	94.00	\$25.00	\$2,350.00	\$36.00	\$3,384.00	\$21.00	\$1,974.00	\$9.00	\$846.00	\$25.00	\$2,350.00
2-02.5	7	REMOVAL OF SIDEWALK	SY	56.00	\$40.00	\$2,240.00	\$87.00	\$4,872.00	\$126.00	\$7,056.00	\$83.00	\$4,648.00	\$68.00	\$3,808.00
2-02.5	8	REMOVAL OF ASPHALT	SY	22.00	\$28.00	\$616.00	\$27.50	\$605.00	\$126.00	\$2,772.00	\$107.00	\$2,354.00	\$52.00	\$1,144.00
2-03.5	9	UNSUITABLE FOUNDATION EXCAVATION INCL. HAUL	CY	132.00	\$65.00	\$8,580.00	\$42.75	\$5,643.00	\$46.00	\$6,072.00	\$113.00	\$14,916.00	\$43.40	\$5,728.80
4-04.5	10	CRUSHED SURFACING TOP COURSE	TON	35.00	\$85.00	\$2,975.00	\$53.00	\$1,855.00	\$30.00	\$1,050.00	\$80.00	\$2,800.00	\$89.30	\$3,125.50
4-04.5	11	CRUSHED SURFACING BASE COURSE	TON	245.00	\$85.00	\$20,825.00	\$56.00	\$13,720.00	\$43.00	\$10,535.00	\$51.00	\$12,495.00	\$21.70	\$5,316.50
5-04.5	12	PAVEMENT REPAIR EXCAVATION INCL. HAUL	SY	3944.00	\$20.00	\$78,880.00	\$7.50	\$29,580.00	\$5.00	\$19,720.00	\$11.50	\$45,356.00	\$11.30	\$44,567.20
5-04.5	13	PLANING BITUMINOUS PAVEMENT	SY	28040.00	\$3.50	\$98,140.00	\$2.20	\$61,688.00	\$2.00	\$56,080.00	\$3.75	\$105,150.00	\$2.46	\$68,978.40
5-04.5	14	HMA CL. 1/2 IN PG 64-22	TON	4745.00	\$105.00	\$498,225.00	\$103.00	\$488,735.00	\$90.00	\$427,050.00	\$93.00	\$441,285.00	\$76.00	\$360,620.00
7-05.5	15	ADJUST MANHOLE	EACH	26.00	\$750.00	\$19,500.00	\$1,165.00	\$30,290.00	\$100.00	\$2,600.00	\$1,000.00	\$26,000.00	\$150.00	\$3,900.00
7-05.5	16	ADJUST WATER VALVE	EACH	36.00	\$550.00	\$19,800.00	\$775.00	\$27,900.00	\$100.00	\$3,600.00	\$760.00	\$27,360.00	\$100.00	\$3,600.00
7-05.5	17	ADJUST CATCH BASIN	EACH	39.00	\$750.00	\$29,250.00	\$1,125.00	\$43,875.00	\$100.00	\$3,900.00	\$1,000.00	\$39,000.00	\$50.00	\$1,950.00
8-02.5	18	PROPERTY RESTORATION	LS	1.00	\$6,000.00	\$6,000.00	\$3,350.00	\$3,350.00	\$1,000.00	\$1,000.00	\$6,000.00	\$6,000.00	\$2,500.00	\$2,500.00
8-04.5	19	CEMENT CONC. TRAFFIC CURB AND GUTTER	LF	94.00	\$32.00	\$3,008.00	\$45.00	\$4,230.00	\$27.00	\$2,538.00	\$53.00	\$4,982.00	\$55.50	\$5,217.00
8-04.5	20	CEMENT CONC. PEDESTRIAN CURB	LF	50.00	\$35.00	\$1,750.00	\$45.00	\$2,250.00	\$27.00	\$1,350.00	\$42.00	\$2,100.00	\$45.50	\$2,275.00
8-09.5	21	RAISED PAVEMENT MARKER TYPE 2	HUN	0.31	\$850.00	\$263.50	\$1,050.00	\$325.50	\$1,000.00	\$310.00	\$1,100.00	\$341.00	\$950.00	\$294.50
8-13.5	22	ADJUST MONUMENT CASE AND COVER	EACH	5.00	\$1,500.00	\$7,500.00	\$625.00	\$3,125.00	\$100.00	\$500.00	\$750.00	\$3,750.00	\$75.00	\$375.00
8-14.5	23	CEMENT CONC. SIDEWALK	SY	56.00	\$99.00	\$5,544.00	\$174.00	\$9,744.00	\$144.00	\$8,064.00	\$128.00	\$7,168.00	\$114.00	\$6,384.00
8-14.5	24	DETECTABLE WARNING SURFACE	SF	30.00	\$40.00	\$1,200.00	\$75.00	\$2,250.00	\$80.00	\$2,400.00	\$39.00	\$1,170.00	\$33.00	\$990.00
8-20.5	25	TRAFFIC SIGNAL SYSTEM	LS	1.00	\$7,500.00	\$7,500.00	\$16,450.00	\$16,450.00	\$15,600.00	\$15,600.00	\$21,000.00	\$21,000.00	\$18,000.00	\$18,000.00
8-20.5	26	REPLACE TRAFFIC LOOP	EACH	2.00	\$1,500.00	\$3,000.00	\$2,200.00	\$4,400.00	\$2,000.00	\$4,000.00	\$1,750.00	\$3,500.00	\$1,500.00	\$3,000.00
8-22.5	27	PAINTED LINE	LF	5780.00	\$0.50	\$2,890.00	\$0.45	\$2,601.00	\$0.45	\$2,601.00	\$0.45	\$2,601.00	\$0.40	\$2,312.00
8-22.5	28	PAINTED WIDE LINE	LF	74.00	\$0.70	\$51.80	\$3.50	\$259.00	\$3.00	\$222.00	\$3.59	\$265.66	\$3.00	\$222.00
8-22.5	29	PROFILED PLASTIC LINE	LF	9154.00	\$3.00	\$27,462.00	\$3.00	\$27,462.00	\$2.50	\$22,885.00	\$3.00	\$27,462.00	\$2.50	\$22,885.00
8-22.5	30	PROFILED PLASTIC WIDE LINE	LF	487.00	\$5.25	\$2,556.75	\$4.00	\$1,948.00	\$4.00	\$1,948.00	\$4.50	\$2,191.50	\$3.80	\$1,850.60
8-22.5	31	PLASTIC STOP LINE	LF	322.00	\$10.00	\$3,220.00	\$7.00	\$2,254.00	\$6.00	\$1,932.00	\$7.00	\$2,254.00	\$6.00	\$1,932.00
8-22.5	32	PLASTIC CROSSWALK	SF	920.00	\$10.00	\$9,200.00	\$6.00	\$5,520.00	\$5.00	\$4,600.00	\$6.00	\$5,520.00	\$5.00	\$4,600.00
8-22.5	33	PLASTIC TRAFFIC ARROW	EACH	26.00	\$200.00	\$5,200.00	\$115.00	\$2,990.00	\$106.00	\$2,756.00	\$120.00	\$3,120.00	\$100.00	\$2,600.00
8-22.5	34	RAILROAD CROSSING SYMBOL	EACH	1.00	\$500.00	\$500.00	\$500.00	\$500.00	\$479.00	\$479.00	\$525.00	\$525.00	\$450.00	\$450.00
8-32.5	35	PROJECT SIGN	EACH	4.00	\$500.00	\$2,000.00	\$650.00	\$2,600.00	\$441.00	\$1,764.00	\$350.00	\$1,400.00	\$45.00	\$180.00
						\$1,152,613.85		\$1,129,937.50		\$833,806.00		\$1,044,326.16		\$795,592.50





2021 Pavement Preservation Project Certified Bid Tab

Certified Bid Tab

5/27/2021

11430090.548000.TB103 2021 PAVEMENT PRESERVATION PROJECT

Schdule A				Engineer's Estimate		Central Paving		
Section	Item	Description	Quantity	Units	Unit Prices	Total Price	Unit Prices	Total Price
1-04.4	1	MINOR CHANGES	FA	1.00	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00
1-07.15	2	SPCC PLAN	LS	1.00	\$1,000.00	\$1,000.00	\$500.00	\$500.00
1-09.7	3	MOBILIZATION	LS	1.00	\$85,378.80	\$85,378.80	\$92,000.00	\$92,000.00
1-10.5	4	PROJECT TEMPORARY TRAFFIC CONTROL	LS	1.00	\$175,000.00	\$175,000.00	\$60,000.00	\$60,000.00
2-02.5	5	SAWCUT	LF	112.00	\$9.00	\$1,008.00	\$10.00	\$1,120.00
2-02.5	6	REMOVAL OF CURB AND GUTTER	LF	94.00	\$25.00	\$2,350.00	\$40.00	\$3,760.00
2-02.5	7	REMOVAL OF SIDEWALK	SY	56.00	\$40.00	\$2,240.00	\$60.00	\$3,360.00
2-02.5	8	REMOVAL OF ASPHALT	SY	22.00	\$28.00	\$616.00	\$40.00	\$880.00
2-03.5	9	UNSUITABLE FOUNDATION EXCAVATION INCL. HAUL	CY	132.00	\$65.00	\$8,580.00	\$40.00	\$5,280.00
4-04.5	10	CRUSHED SURFACING TOP COURSE	TON	35.00	\$85.00	\$2,975.00	\$100.00	\$3,500.00
4-04.5	11	CRUSHED SURFACING BASE COURSE	TON	245.00	\$85.00	\$20,825.00	\$50.00	\$12,250.00
5-04.5	12	PAVEMENT REPAIR EXCAVATION INCL. HAUL	SY	3944.00	\$20.00	\$78,880.00	\$9.50	\$37,468.00
5-04.5	13	PLANING BITUMINOUS PAVEMENT	SY	28040.00	\$3.50	\$98,140.00	\$2.25	\$63,090.00
5-04.5	14	HMA CI. 1/2 IN PG 64-22	TON	4745.00	\$105.00	\$498,225.00	\$87.00	\$412,815.00
7-05.5	15	ADJUST MANHOLE	EACH	26.00	\$750.00	\$19,500.00	\$945.00	\$24,570.00
7-05.5	16	ADJUST WATER VALVE	EACH	36.00	\$550.00	\$19,800.00	\$693.00	\$24,948.00
7-05.5	17	ADJUST CATCH BASIN	EACH	39.00	\$750.00	\$29,250.00	\$200.00	\$7,800.00
8-02.5	18	PROPERTY RESTORATION	LS	1.00	\$6,000.00	\$6,000.00	\$5,000.00	\$5,000.00
8-04.5	19	CEMENT CONC. TRAFFIC CURB AND GUTTER	LF	94.00	\$32.00	\$3,008.00	\$26.25	\$2,467.50
8-04.5	20	CEMENT CONC. PEDESTRIAN CURB	LF	50.00	\$35.00	\$1,750.00	\$26.25	\$1,312.50
8-09.5	21	RAISED PAVEMENT MARKER TYPE 2	HUN	0.31	\$850.00	\$263.50	\$997.50	\$309.23
8-13.5	22	ADJUST MONUMENT CASE AND COVER	EACH	5.00	\$1,500.00	\$7,500.00	\$693.00	\$3,465.00
8-14.5	23	CEMENT CONC. SIDEWALK	SY	56.00	\$99.00	\$5,544.00	\$141.75	\$7,938.00
8-14.5	24	DETECTABLE WARNING SURFACE	SF	30.00	\$40.00	\$1,200.00	\$78.75	\$2,362.50
8-20.5	25	TRAFFIC SIGNAL SYSTEM	LS	1.00	\$7,500.00	\$7,500.00	\$18,900.00	\$18,900.00
8-20.5	26	REPLACE TRAFFIC LOOP	EACH	2.00	\$1,500.00	\$3,000.00	\$1,575.00	\$3,150.00
8-22.5	27	PAINTED LINE	LF	5780.00	\$0.50	\$2,890.00	\$0.42	\$2,427.60
8-22.5	28	PAINTED WIDE LINE	LF	74.00	\$0.70	\$51.80	\$3.15	\$233.10
8-22.5	29	PROFILED PLASTIC LINE	LF	9154.00	\$3.00	\$27,462.00	\$2.63	\$24,075.02
8-22.5	30	PROFILED PLASTIC WIDE LINE	LF	487.00	\$5.25	\$2,556.75	\$3.99	\$1,943.13
8-22.5	31	PLASTIC STOP LINE	LF	322.00	\$10.00	\$3,220.00	\$6.30	\$2,028.60
8-22.5	32	PLASTIC CROSSWALK	SF	920.00	\$10.00	\$9,200.00	\$5.25	\$4,830.00
8-22.5	33	PLASTIC TRAFFIC ARROW	EACH	26.00	\$200.00	\$5,200.00	\$105.00	\$2,730.00
8-22.5	34	RAILROAD CROSSING SYMBOL	EACH	1.00	\$500.00	\$500.00	\$472.50	\$472.50
8-32.5	35	PROJECT SIGN	EACH	4.00	\$500.00	\$2,000.00	\$800.00	\$3,200.00
						\$1,152,613.85		\$860,185.68





1 IN = 500 FT

2021 PAVEMENT PRESERVATION PROJECT - VICINITY MAP

PART 3 - CONTRACT DOCUMENTS

PUBLIC WORKS CONTRACT

THIS PUBLIC WORKS CONTRACT (the “Contract”) is made and entered into as of the date of the last signature below, by and between the City of Marysville, a Washington State municipal corporation (the “City”) and Cadman Materials, Inc., a Corporation, organized under the laws of the State of Washington, located and doing business at 222 W Marine View Drive, Everett, WA 98201-1029, (the “Contractor”).

WITNESSETH:

Whereas, the City desires to have certain public work performed as hereinafter set forth, requiring specialized skills and other supportive capabilities; and

Whereas, the Contractor represents that it is qualified and possesses sufficient skills and the necessary capabilities to perform the services set forth in this Contract.

NOW, THEREFORE, in consideration of the terms, conditions, and agreements contained herein, the parties hereto agree as follows:

- I. SCOPE OF WORK.** The Contractor agrees to do all work and furnish all labor, tools, materials, equipment, and supplies required to build and construct and to build and construct in a workmanlike manner the work, improvements, and appurtenances in order to accomplish the following project:

2021 PAVEMENT PRESERVATION PROJECT, TB103

All such work, labor, tools, materials, equipment, and supplies to be procured and furnished in accordance with the following documents (the “Contract Documents”) which are incorporated by reference and are hereby made a part of this Contract:

- A. This Contract;
- B. The Call for Bids, Information for Bidders, and Bidder’s Checklist;
- C. 2021 Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction as modified by all amendments thereto as of the date of the Contractor’s bid;
- D. Special Provisions
- E. Plans, Drawings, Project and Technical Specifications;
- F. Addenda (if any)
- G. Contractor's Proposal/Bid
- H. Payment Bond and Performance Bond; and
- I. All provisions required by law whether set forth and reproduced herein or not.

and shall perform any alterations in or additions to the work provided under this Contract and every part thereof.

The Contractor shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this Contract, except as may otherwise be provided in the Contract Documents.

The Contractor shall guarantee said materials and work for a period of one year after completion of this Contract.

- II. TIME FOR COMPLETION & LIQUIDATED DAMAGES.** Substantial completion shall be achieved within Forty (40) working days of the effective date of the Notice to Proceed. If said work is not completed within the time specified, the Contractor agrees to pay the City liquidated damages as provided in Section 1-08.9 of the Standard Specifications.
- III. COMPENSATION AND METHOD OF PAYMENT.** The lump sum/total itemized amount of the Contract is Seven Hundred Ninety Five Thousand Five Hundred Ninety Two Dollars and Fifty Cents (\$795,592.50) including Washington State Sales Tax. The total Project cost includes all costs associated with the Project work, including, but not limited to labor, materials, overhead, and administrative, permit, and regulatory costs, unless otherwise agreed in writing. The Project cost is based on the proposal/bid submitted by the Contractor dated May 27, 2021. The basis for final payment will be the actual amount of work performed according to the Contract Documents and payments, whether partial or final, shall be made as specified therein.
- IV. ATTORNEY FEES.** Should either the City or the Contractor commence any legal action relating to the provisions of this Contract, or the enforcement thereof, the prevailing party shall be awarded judgment for all costs of litigation including, but not limited to, costs, expert witnesses and reasonable attorney fees.
- V. INDEMNIFICATION.** In addition to any other obligations contained in the Contract Documents,
- A. The Contractor 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 in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City.
 - B. Should a court of competent jurisdiction determine that this Contract 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 Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.
 - C. The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW, as

provided in RCW 4.24.115. The indemnification obligation under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers compensation acts, disability benefits acts, or other employee benefits acts; provided the Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against the Contractor by the City and does not include, or extend to, any claims by the Contractor's employees directly against Contractor. The obligations of Contractor under this subsection have been mutually negotiated by the parties hereto, and Contractor acknowledges that the City would not enter into this Contract without the waiver thereof of Contractor.

_____ (City initials) _____ (Contractor initials)

D. The provisions of this section shall survive the expiration or termination of this Contract with respect to any event occurring prior to such expiration or termination.

VI. CONTRACT ADMINISTRATION.

This Contract shall be administered Satya Kammanenadimenti on behalf of the Contractor and by Nick Greene on behalf of the City. Any written notices required by the terms of this Contract shall be served or mailed to the following addresses:

Contractor:
Cadman Materials, Inc.
Attn: Satya Kammanenadimenti
7554 185th Ave NE, Suite 100
Redmond, WA 98052

City:
City of Marysville
Public Works – Attn: Nick Greene
80 Columbia Ave
Marysville, WA 98270

VII. PREVAILING WAGES. The Contractor shall comply with all state and federal laws relating to the employment of labor and wage rates to be paid.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

DATED this _____ day of _____, 2021.

CITY OF MARYSVILLE

By: _____
Jon Nehring, Mayor

DATED this _____ day of _____, 2021.

CADMAN MATERIALS, INC.

By: _____
Benedikt Zinn
Its: Vice President

Attested/Authenticated:

_____, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

**CONTRACTOR'S DECLARATION OF OPTION FOR MANAGEMENT OF
STATUTORY RETAINED PERCENTAGE**

Monies reserved under provisions of Chapter 60.28 RCW, at the option of the Contractor, shall be:

Select one:

- (1) Retained in a fund by the City.** No interest will be earned on the retained percentage amount under this election.

- (2) Deposited in an Interest-Bearing Account.** Deposited by the City in an interest-bearing account in a bank, mutual savings bank, or savings and loan association. Funds may not be withdrawn until sixty (60) days after the completion date of the work and must be in accordance with Chapters 60.28 and 39.12 RCW. Interest on such account will be paid to the Contractor. Fees incurred shall be the responsibility of the Contractor.

If this option is selected, the Contractor must complete the attached "Assignment of Savings or Time Deposit Escrow Retained Percentage Holding Account" form.

- (3) Placed in an Escrow Account Chosen by Contractor.** Placed in escrow with a bank or trust company by the City. When the monies reserved are to be placed in escrow, the City will issue a check representing the sum of the monies reserved payable to the bank or trust company and the Contractor jointly. Such check shall be converted into bonds and securities chosen by the Contractor and approved by the City and the bonds and securities held in escrow. The Contractor is solely responsible for all costs which may accrue from escrow services, brokerage costs, or both, and assumes all risks in connection with the investment of the retained percentages in securities.

If this option is selected, the Contractor must complete two copies of the attached "Retainage Escrow Agreement" form.

- (4) Bond in Lieu of Retainage.** In lieu of the City withholding retainage, the Contractor will submit a Retainage Bond which must be effective until sixty (60) days following the completion date of the work and in accordance with Chapters 60.28 and 39.12 RCW.

If this option is selected, the Contractor must complete the attached "Retainage Bond" form.

Contractor

Contractor's Signature

Printed Name: _____

Title: _____

Date: _____

**Assignment of Savings or Time Deposit Escrow
Retained Percentage Holding Account**

The undersigned _____ hereby referenced to as "Contractor" has directed CITY OF MARYSVILLE herein referred to as "Agency" to deliver its warrants or checks payable to _____, herein after the "Bank" and the Contractor jointly. Such warrants or checks shall be deposited to Account # _____ as an Escrow Retained Percentage Holding Account.

All deposits to the account shall not be subject to withdrawal until the Bank is notified by the Agency, in writing, authorizing the release of such funds. All interest earned on this account shall be paid to the Contractor. Any costs or fees incurred as a result of placing the said retained percentage funds in this account shall be paid by the Contractor.

<hr/> Contractor	Agency: City of Marysville
Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
_____	_____
Date: _____	Date: _____

Bank
Signature: _____
Name: _____
Title: _____
Address: _____

Phone: _____
Date: _____



Project	2021 Pavement Preservation Project
Contractor	Cadman Materials, Inc.
Bank	

The Undersigned, _____, hereinafter referred to as the Contractor, and the City of Marysville, hereinafter referred to as the City, have entered into a public works construction contract.

Under the terms of the Contract, and pursuant to Chapter 60.28. RCW, the Contractor and the Public Body have agreed to deposit any and all retainage from the Contract into an interest bearing depository account (the “Retainage Account”) with _____ (the “Bank”), subject to the following instructions:

RETAINAGE ESCROW AGREEMENT AND INSTRUCTIONS

- Escrow Agreement.** The Contractor on a public improvement project for the City exercised its option pursuant to RCW 60.28.011 (1994) to place Retainage in escrow with the Bank. This Agreement constitutes both the escrow agreement between the City and Contractor and instructions to the Bank for handling of the Escrow Account. This Agreement is not effective until (a) the Agreement has been signed by the Contractor, Bank and City and (b) Contractor, Bank and City have entered the appropriate information in Exhibit A.
- Check Issuance, Endorsement, and Deposit.** From time to time, the City will issue a Check payable to the Bank and Contractor jointly. Contractor expressly authorizes and grants the power to the Bank to endorse the check on its behalf, to negotiate the check, collect the funds represented by the Check, and to deposit the funds so collected into the Escrow Account. These powers shall be deemed to be powers coupled with an interest and shall be irrevocable during the term of this escrow.
- Investment of Funds.** Funds and cash balances in the Escrow Account may be invested in Eligible Securities at the direction of the Contractor. For purchase of Eligible Securities, the Bank may follow the last written direction it received from the Contractor, provided such direction provides for investment in Eligible Securities. The Bank shall not invest any funds, cash balances, or proceeds of sale of Eligible Securities in any securities, bonds or accounts that are not Eligible Securities. Eligible Securities purchased pursuant to this Agreement shall be held by the Bank as custodian as part of this escrow. Eligible Securities shall be held in the Bank’s name. Interest on the purchased Eligible Securities, if any, shall be paid to Contractor when, as and if any accrued interest is received by the Bank.
- Eligible Securities.** The following securities are deemed Eligible Securities, and the Bank may invest funds and cash balances in such securities at the direction of Contractor without further approval of the City, provided that any maturity dates are no later than twenty-five (25) calendar days after the Completion Date and provided they are held in a manner and form that

allows Bank alone to liquidate the securities as provided for in the Agreement.

- A. Bills, certificates, notes or bonds of the United States;
- B. Other obligations of the United States or its agencies;
- C. Obligations of any corporation wholly owned by the Government of the United States;
- D. Indebtedness of the Federal National Mortgage Association;
- E. Time deposits in commercial banks; and
- F. Mutual funds, pools, or investment trusts, provided the investments of the fund, pool or trust consists solely of securities listed in herein.

Other securities may be deemed Eligible Securities upon the written request of the Contractor and written approval of the City, provided the City has the staff assistance and expertise which will permit it to exercise sound judgment in assessing the security. The City shall consider probable safety, risk to principal, liquidity and any other factor the City deems reasonable to consider. Nothing herein obligates the City to incur any expense or charge to assess the appropriateness of a proposed security. The City has no obligation to consider a proposed security if the City would incur expenses, charges or fees in its assessment of the appropriateness of the security as an investment. If the proposed security has a maturity date, the security must mature on or before the Completion Date. The Contractor expressly acknowledges that any investment in securities involves risks, including, but not limited to, the risks of loss or diminution of principal and failure to realize anticipated or expected appreciation, dividends, interest, or other gain. Contractor expressly waives and releases both City and Bank from any and all liability associated with, or arising out of, these and all market risks.

5. *Bank Duties and Responsibilities.* Although the Bank will be a joint payee of any Check, the Bank shall only have (a) those duties and responsibilities that a depository bank would have pursuant to Article 4 of the Uniform Commercial Code of the State of Washington for an item deposited to Bank and (b) those duties and responsibilities created by this Agreement. The Bank must not deliver to the Contractor all or any part of the securities or money held by the Bank pursuant to this Agreement (or any proceeds from the sale of such securities, or the negotiation of the City's warrants or checks) except in accordance with written instructions from the City. The City Clerk is authorized to give written instructions and the Finance Director or Treasurer (or its designee) is authorized to give written approval of securities. Written instructions and written approval of securities must be countersigned by the City Attorney. The City may designate different authorized persons from time to time by notifying the Bank in writing of the change, which notice must be countersigned by the City Attorney.

6. *Change of Completion Date.* Upon written request by the Bank, City shall advise the Bank in writing of any change in the Completion Date. If the changed Completion Date is later than the original Completion Date, the Bank may reinvest any funds on hand, cash balances or proceeds of Eligible Securities with maturities, reverse loads, etc. consistent with the later

Completion Date. If the changed Completion Date is earlier than the original Completion Date, the Bank shall execute such transactions as are commercially reasonable to liquidate Eligible Securities in the Escrow Account no later than twenty-five (25) calendar days after the earlier Completion Date.

7. **Return of Funds to City.** At the City's sole option and notwithstanding any other provision of this Agreement, the City may direct the Bank in writing to liquidate any and all Eligible Securities held in or for the Escrow Account and to deliver all funds, cash, accrued interest and proceeds in the Escrow Account to the City. Such liquidation shall occur within thirty-five (35) calendar days of receipt of the written direction.

8. **Compensation of Bank.** Contractor shall be solely responsible for, and shall pay separately to the Bank, any and all fees, charges, or commissions of the Bank relating to the Escrow Account. No fees, charges or commissions of any kind may be deducted by the Bank from any property, funds, proceeds or Eligible Securities in the Escrow Account until and unless the City directs the release of the Escrow Account to the Contractor, in which case the Bank is hereby granted a lien upon the property, proceeds or Eligible Securities in the Escrow Account for the entire amount of unpaid Bank fees, costs or charges arising out of or relating to the Escrow Account. Said lien arises and is effective upon the City's written direction to release the Escrow Account to the Contractor. The City shall not be liable for any fees, charges, expenses or commissions relating to the Escrow Account or any Eligible Securities.

9. **Termination of Escrow By Bank.** Bank may terminate the escrow by giving written notice to the City and Contractor. Within twenty (20) calendar days of the receipt of such notice, the City and Contractor shall jointly appoint a successor escrow holder and instruct Bank to deliver all securities and funds of the Escrow Account to said successor. If Bank is not so notified of the appointment of a successor escrow holder, Bank may return all funds, securities and contents of the Escrow Account to the City.

10. **Definitions**

"**Agreement**" shall mean this document, including exhibit A when completely executed by the City, Contractor and Bank.

"**Bank**" shall mean that national or state chartered bank identified in Exhibit A that holds the escrow.

"**Check**" shall mean a check or warrant payable jointly to the Bank and Contractor, representing accrued Retainage.

"**City**" shall mean the City of Marysville, a municipal corporation of the State of Washington.

"**Completion Date**" shall mean that date occurring immediately after the expiration of the project duration (as defined by the contract for the public improvement), including any agreed extensions thereof. The initial Completion Date can be found in Exhibit A.

"**Contractor**" shall mean the undersigned contractor.

"**Escrow Account**" shall mean the escrow created by this Agreement.

“Eligible Securities” are those bonds and securities identified in the paragraph 4 above.

“Retainage” shall mean moneys reserved by the City under the provisions of a public improvement contract.

11. Miscellaneous.

A. With the possible exception of any agreement between the Bank and Contractor regarding amount and payment of fees, commissions and charges related to the Escrow Account, this document contains the entire agreement between the Bank, Contractor and the City with respect to this Escrow Account.

B. This Agreement binds the assigns, successors, personal representatives and heirs of the parties hereto. Those persons executing this Agreement represent and warrant they are duly authorized to bind their principals to this Agreement and to execute this Agreement on their behalf.

C. Venue for any dispute arising out of, or related to, this Agreement shall be Snohomish County, Washington.

D. This Agreement shall be executed in triplicate, each of which shall be deemed to be an original.

<p>AGREED AND ACCEPTED this the ___ day of _____, 2021.</p> <p>_____</p> <p>CONTRACTOR</p> <p>By: _____</p> <p>Printed Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>City: _____</p> <p>State: _____ Zip: _____</p> <p>Tax ID #: _____</p>	<p>AGREED AND ACCEPTED this the ___ day of _____, 2021.</p> <p>CITY OF MARYSVILLE</p> <p>By: _____</p> <p>Jon Nehring, Mayor</p> <p>ATTEST:</p> <p>By: _____</p> <p>_____, Deputy City Clerk</p>
<p>AGREED AND ACCEPTED this the ___ day of _____, 2021.</p> <p>_____</p> <p>BANK</p> <p>By: _____</p> <p>Printed name: _____</p> <p>Its: _____</p>	<p>APPROVED AS TO FORM:</p> <p>By: _____</p> <p>Jon Walker, City Attorney</p>

EXHIBIT A

City Supplied Information. The City provides the following information:

Project	2021 Pavement Preservation Project Name
	TB103 Work Order # (if applicable)
Contractor	Cadman Materials, Inc.
Bank	
Completion Date	

Bank Supplied Information. Bank provides the following information:

Bank	Name	
	Branch	
	Address/Phone	
	Contact Person/Account Officer	
Escrow Account	Account Name	
	Bank Account #	

Contractor Supplied Information. Contractor provides the following information:

Contractor	Name	
	Address/Phone	
	Representative Authorized to Direct Investment	

RETAINAGE BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, that Cadman Materials, Inc., a corporation organized under the laws of the State of Washington, and registered to do business in the State of Washington as a contractor, as Principal, and _____ (Surety), a corporation organized under the laws of the State of _____ and registered to transact business in the in the State of Washington as surety, as Surety, their heirs, executors, administrators, successors, and assigns, are jointly and severally held and bound to the City of Marysville, Washington, hereinafter called "City", and are similarly held and bound unto the beneficiaries of the trust fund created by RCW Chapter 60.28, in the sum of _____ and ___/100's Dollars (\$_____), or five percent (5%) of all monies now or hereafter earned by the Principal in connection with the below-referenced Contract, the payment of which, well and truly to be paid, we bind ourselves, our heirs, executors and successors, jointly and severally, formally by these presents.

THE CONDITIONS OF THE ABOVE OBLIGATION ARE THAT:

WHEREAS, on _____, 20____, the Principal executed a contract (the "Contract") with the City known as:

Project Name: _____

Contract Number: _____

And,

WHEREAS, said Contract and RCW Chapter 60.28 require the City to withhold from the Principal the sum of five percent (5%) from monies earned by the Principal during the progress of the construction, hereinafter referred to as "earned retained funds"; and

WHEREAS, the Principal has requested that the City accept a retainage bond and release earned retained funds to the Principal, as allowed under RCW Chapter. 60.28;

NOW, THEREFORE, the condition of this obligation is such that the Surety is held and bound to the City to indemnify, defend, and hold the City harmless from any and all loss, costs or damages that the City may sustain by reason of release of said earned retained funds to Principal, then this obligation to be null and void, otherwise to remain in full force and effect.

PROVIDED, HOWEVER, it is expressly understood and agreed that:

1. Any suit or action under this bond must be instituted within the time period provided by applicable law. The bond shall be subject to all claims and liens provided for by law or Contract against the earned retained funds and in the same manner and priority as set forth for retained percentages in RCW Ch. 60.28 and the Contract.

2. The Surety hereby consents to and waives notice of any extension in the time for performance of the Contract, assignment of obligations under the Contract, or Contract alteration, termination, amendment or change order. This expressly includes, but is not limited to, consent to and waiver of any notice with respect to increases in the Contract price by change

