

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.

201812034

Originating Department:	Parks & Recreation
Division/Program: <i>(i.e. Dept. Division and Program)</i>	Senior Services
Contract or Grant Administrator:	Mike McFarlane
Contractor's / Agency Name:	Whatcom Council on Aging
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: _____ (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): <u>11-07</u> Contract _____ Cost Center: <u>6002</u>	
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>123,748</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>123,748</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies or equipment included approved in the budget. 4. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: This contract provides the funding for the Whatcom Council on Aging to staff and operate the Bellingham Senior Activity Center. Last year the center served 84,786 seniors. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.	
Term of Contract:	January 1, 2019
Expiration Date:	December 31, 2020

Contract Routing:	1. Prepared by: <u>Shannon Batdorf</u>	Date: <u>12/10/2018</u>
	2. Attorney signoff: _____	Date: <u>12/14/18</u>
	3. AS Finance reviewed: <u>B. Bennett</u>	Date: <u>12/17/18</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____ ✓	Date: <u>11-6-18</u>
	6. Submitted to Exec.: _____ ✓	Date: <u>12-27-18</u>
	7. Council approved (if necessary): _____ ✓	Date: <u>1-15-19</u>
	8. Executive signed: _____	Date: <u>1-16-19</u>
	9. Original to Council: _____ ✓	Date: <u>1-25-19</u>

CONTRACT FOR SERVICES AGREEMENT
BELLINGHAM SENIOR ACTIVITY CENTER STAFFING AND OPERATIONS

Whatcom Council on Aging, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3 to 8,
Exhibit A (Scope of Work), pp. 9 to 11,
Exhibit B (Compensation), pp. 12,
Exhibit C (Certificate of Insurance & Endorsements).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of January 1, 2019, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2020.

The general purpose or objective of this Agreement is to: provide onsite staffing to assist in the operation of the Whatcom Council on Aging's Bellingham Senior Activity Program housed in the County owned Bellingham Senior Activity Center facility, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$123,748. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 30.2 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 6 day of November, 2018.

CONTRACTOR:

COUNCIL ON AGING

[Handwritten signature of Mary Carlson]
Mary Carlson, Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 6 day of November 2018, before me personally appeared Mary Carlson to me known to be the Executive Director of Council on Aging and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



[Handwritten signature of Notary Public]
NOTARY PUBLIC in and for the State of Washington, residing at
1333 Cornwall
Bellingham WA My commission expires 07/19/2020
98225

WHATCOM COUNTY:
Recommended for Approval:

[Signature] 12-12-18
Department Director Date

Approved as to form:
[Signature] 12/14/18
Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:
[Signature]

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this 16th day of January, 2019, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Suzanne M. Mildner
NOTARY PUBLIC in and for the State of Washington, residing at
Bellingham My commission expires 12-31-22

CONTRACTOR INFORMATION:

Whatcom Council on Aging
Bellingham Senior Activity Address:
315 Halleck Street
Bellingham, Washington, 98225

Mailing Address:
315 Halleck Street
Bellingham, Washington 98225

Contact Name: Mary Carlson
Contact Phone: 360.360.733.4030 ext. 1026
Contact Email: mcarlson@wcco.org

GENERAL CONDITIONS

0.1 Scope of Services:

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, beyond county supplied custodian and/or work crews, or facilities, other than the Bellingham Senior Activity Center building and grounds will be furnished by the County, unless otherwise provided for in the Agreement.

10.1 Term:

Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

11.1 Termination for Default:

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within thirty (30) days of the mailing of the notice, whichever occurs first. If the contract is terminated by default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems continuation of the programs covered by this Agreement is no longer in the best interests of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provision of this Agreement. Termination under this section shall be effective upon written notice as specified herein, or within thirty (30) days of the mailing of the notice, whichever occurs first.

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed according to the Scope of Work in Exhibit A, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event of the County's Administrative Officer determines that the Contractor has failed to perform any obligations under this Agreement within the times set forth in this Agreement, then the County may withhold from amount otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative officer determines that such

failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amount otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Dispute clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from the amounts due or to become due to the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of the good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor agrees to comply with all applicable local, state and federal requirements laws.

30.1 Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service on an IRS Form 990, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be accessible and made available to the County.

Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

32.1 Confidentiality:

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The county or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after the contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request.

34.1 Proof of Insurance:

The Contractor is required to meet the following Insurance Requirements.

General Liability Insurance at \$1,000,000 per occurrence

Professional Liability Insurance at \$500,000 per occurrence

Workers Compensation Insurance and listed amounts for bodily injury by accident, bodily injury by disease, policy limits

Fraud Insurance covering employees

Comprehensive Automobile Liability \$1,000,000 each accident

A certificate of such insurance, with attached endorsement providing proof of all required insurance provisions, including Contractor's insurance must name the County, officials, employees, agents and volunteers, as additional insureds on this contract; Contractor's insurance is primary and County's insurance is non-contributory, and the Contractor waives all rights of subrogation; proof of said insurance is attached hereto as Exhibit "C." Contractor shall maintain in effect all insurance coverages required under this Agreement, at Contractor's sole expense and with insurance carriers licensed to do business in the State of Washington in which the Project is located and having a current A.M. Best rating of no less than A-, unless another A.M. Best rating is specifically accepted by the County in writing, and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. The Contractor must provide a Certificate of Insurance and Endorsements which identifies clearly and readily proof of insurance as required under this Agreement, including the endorsements that the County, employees, agents and volunteers are named additional insureds on the Contractor's policy; the Contractor's insurance is primary and the County's insurance is non-contributory; and the waiver of subrogation.

The Contractor shall provide annual proof of insurance to the County. The County shall not be obligated to review such certificates, endorsements, or other evidence of insurance, or to advise Contractor of any deficiencies in such documents, and receipt thereof shall not relieve Contractor from, nor be deemed a waiver of the County's right to enforce, the terms of Contractor's obligations hereunder.

34.3 Indemnification by Contractor:

To the fullest extent permitted by law, the Contractor (also identified as Provider) agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any act or omission, negligent or otherwise, of the Provider, its employees, agents or volunteers or Provider's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement; or 3) are based upon the Provider's or its subcontractors' use of, presence upon or proximity to the property of the County, or 4) Provider's breach of this Agreement. This indemnification obligation of the Provider shall not apply in the limited circumstance where the claim, damage, loss or expense is

caused by the sole negligence of the County. This indemnification obligation of the Provider shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Provider hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Provider are a material inducement to County to enter into this Agreement, are reflected in the Provider's compensation, and have been mutually negotiated by the parties.

The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Provider's indemnity obligations under this Agreement.

The Provider agrees all Provider's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, veteran status or any other protected classes. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, veteran status or any other protected classes, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, veteran status or any other protected classes, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex national origin, sexual orientation, age, marital status, disability, veteran status, or any other protected classes.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, veteran status or any other protected classes; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement based on color, creed, religion, natural origin, sex, age, marital status, sexual orientation, disability, veteran status or any other protected classes.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Michael McFarlane, Director

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

42.2

a. General:

Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), but shall not have the power to award punitive damages. All costs, expenses and attorney's fees for arbitration shall be at each party's own expense, unless agreed otherwise in writing by both parties. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration. The parties shall equally share in the cost of the mediator or arbitrators fees and expenses.

Unless otherwise specified herein, this Agreement shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3 , 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"
SCOPE OF WORK

Contractor will be required to staff and open the Bellingham Senior Activity Center at a minimum of Monday through Friday 8:00 a.m. to 4:30 p.m., except for holidays and during inclement weather. Any change in these hours of operation will need to be coordinated with the County Parks & Recreation Department. Contractor will have building access on Mondays, Wednesdays, Thursdays and Fridays from 7:00 a.m. to 6:00 p.m. and on Tuesdays from 7:00 a.m. to 9:00 p.m. for programs that occur outside of normal operating hours. Contractor will also have building access on Saturdays from 5:00 a.m. to 3:00 p.m. for programs and activities. In addition Contractor may offer additional hours of operation and duties that they feel are necessary to effectively operate the Bellingham Senior Activity Center. Additional hours of operation will need to be coordinated with the County Parks & Recreation Department so as not to interfere with other scheduled events. Contractor will be expected to fulfill the following duties and responsibilities.

- A. Daily On-site Operations during the hours of 8:00 a.m. to 4:30 p.m. , Monday through Friday
- Open, close and lock the facility
 - Schedule the use of the Center space for all programs
 - Perform set-up and take-down of furniture and equipment for daily programs and special events
 - Perform limited custodial duties when the county provided staff person is not available for up to 10 days of intermittent absences, and provide contracted custodial services (3 hours / Day) for up to four weeks for longer term custodial absences for vacation and sick leave
 - Immediately report in writing and verbally any building and grounds maintenance problems or unsafe conditions to the County Parks & Recreation Department
 - Oversee use of the building and ensure activities are conducted in a safe organized manner
- B. Develop and conduct center programming
- Develop a variety of healthy lifestyle and educational programs, along with other activities of interest to older adults
 - Develop a senior gardening program on Bellingham Senior Activity Center property with the program operation plan being approved annual by the Parks and Recreation Operations Manager
 - Provide daily dining room assistance for the Council on Aging Nutrition Program
 - Prepare and distribute a monthly schedule of center programs and activities that also promotes the Bellingham Senior Activity Center
 - Establish a process whereby participants provide input on desire programming and feedback regarding existing programming at the Bellingham Senior Activity Center
- C. Implement and enforce safety procedures for:
- Inclement weather
 - Unsafe conditions on the center grounds and parking lot
 - Closing the facility when necessary in conjunction with other Council on Aging Programs. Notify the County Parks & Recreation Department
 - Fire and emergency evacuation plans
 - Conducting evacuation drills as recommended by the Fire Department and in conjunction with other Council on Aging Programs.
 - A code of Conduct for the Center
 - Resolving participant behavior issues
 - Responding to accidents and medical emergencies
 - Reporting and documenting accidents and incidents and providing copies of such to the County Parks & Recreation Department
- D. Coordinate volunteer activities in support of Center operations. This includes the following:
- Maintaining existing and develop new volunteer programs as appropriate and actively involve participants in the operation of the Bellingham Senior Activity Center
 - Developing volunteer job descriptions to accommodate programming needs
 - Recruit, train, schedule and supervise volunteers
 - Conduct Criminal Background Checks on prospective volunteers using the State of Washington WATCH Program
 - Contractor shall arrange and provide for volunteer insurance coverage
- E. Submit the following reports to the County Parks & Recreation Department:
- Monthly attendance Reports

- Monthly Volunteer Reports
- Annual Financial Reports documenting the expenditure of Whatcom County contracted funds
- Meet with the County Parks & Recreation Department on a semi-annual basis to evaluate how the service contract is working
- Regularly review and respond to any County incident reports regarding participants or Contractor staff
- Work cooperatively with County staff and report any staff behavior issues to the County Parks & Recreation Operations Manager.

F. Contractor is responsible for managing Contractor personnel and for:

- Paying employee payroll and benefits as well as maintaining proper records
- Ensuring that employees are properly screened through the State of Washington WATCH program and trained
- Resolving staff behavior issues.
- Comply with Federal, State and local laws

G. Contractor will maintain the insurance coverage required in section 34 Proof of Insurance and provide annually a Certificate of Insurance and Endorsements to the County Parks & Recreation Department covering the terms and requirements in this Agreement.

EXHIBIT "B"
COMPENSATION

Whatcom County Parks & Recreation Department will provide \$61,874 for the twelve (12) month period January 1, 2019 through December 31, 2019, and \$61,874 for the twelve (12) month period January 1, 2020 through December 31, 2020.

Whatcom Council on Aging shall invoice Whatcom County Parks & Recreation Department by the last working day of each month during the term of this Agreement for services rendered as outlined in Exhibit "A" Scope of Work. Whatcom County Parks & Recreation Department shall reimburse the Whatcom Council on Aging for twelve (12) equal payments in 2019 and twelve (12) equal payments in 2020. Reimbursements may be reduced on a pro-rated basis if the Senior Center programming is discontinued for an extended period due to emergencies or natural disasters.

EXHIBIT "C"
CERTIFICATE OF INSURANCE & EDORSEMENTS

WCOA

WhatCA19

Non Profit Insurance Program CERTIFICATE OF COVERAGE

Issue Date: 05/19/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONVERTS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF COVERAGE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGRATION IS WAIVED, subject to the terms and conditions of the policy, certain coverage may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Clear Risk Solutions 451 Diamond Drive Ephrata, WA 98823	COMPANIES AFFORDING COVERAGE GENERAL LIABILITY American Alternative Insurance Corporation, et al. AUTOMOBILE LIABILITY American Alternative Insurance Corporation, et al.
INSURED Whatcom Council on Aging 315 Halleck St Bellingham, WA 98225	PROPERTY American Alternative Insurance Corporation, et al. MISCELLANEOUS PROFESSIONAL LIABILITY Princeton Excess and Surplus Lines Insurance Company
COVERAGES	


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	DESCRIPTION	LIMITS
GENERAL LIABILITY					
COMMERCIAL GENERAL LIABILITY OCCURRENCE FORM INCLUDES STOP GAP	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	PER OCCURRENCE PER MEMBER AGGREGATE PRODUCT-CO MP/OP PERSONAL & ADV. INJURY ANNUAL POOL AGGREGATE	\$5,000,000 \$10,000,000 \$5,000,000 \$5,000,000 \$50,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
AUTOMOBILE LIABILITY					
ANY AUTO	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	COMBINED SINGLE LIMIT ANNUAL POOL AGGREGATE	\$5,000,000 NONE
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
PROPERTY					
	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	ALL RISK PER OCC EXCL EQ & FL EARTHQUAKE PER OCC FLOOD PER OCC ANNUAL POOL AGGREGATE	\$75,000,000 EXCLUDED EXCLUDED NONE
(PROPERTY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
MISCELLANEOUS PROFESSIONAL LIABILITY					
	N1-A3-RL-0000060-09	06/01/2018	06/01/2020	PER CLAIM ANNUAL POOL AGGREGATE	EXCLUDED \$40,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS
 Regarding the Contract for Services Agreement, Bellingham Senior Activity Center Staffing and Operations between Whatcom County Council on Aging and Whatcom County. Whatcom County, its officials, employees, agents, and volunteers are named as Additional Insured regarding this contract only and are subject to policy terms, conditions, and exclusions. Crime Coverage is included in the policy with a limit of \$1,000,000. NPIP retained limit is primary and non-contributory. Auto Liability Coverage includes Hired/Non-Owned Auto. Additional Insured and Waiver of Subrogation endorsements are attached.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

CERTIFICATE HOLDER Attn: Michael McFarlane, Director Whatcom County 311 Grand Avenue Bellingham, WA 98225	AUTHORIZED REPRESENTATIVE 
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**AMERICAN ALTERNATIVE
INSURANCE COMPANY**

**ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION
(GENERAL LIABILITY)**

Named Insured Non Profit Insurance Program (NPIP)	
Policy Number N1-A2-RL-0000013-09	Endorsement Effective 6/1/2018

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.
Schedule

Person or Organization (Additional Insured): As Per Schedule on file with Clear Risk Solutions, Underwriting Administrator

Attn: Michael McFarlane, Director
Whatcom County
311 Grand Avenue
Bellingham, WA 98225

Regarding the Contract for Services Agreement, Bellingham Senior Activity Center Staffing and Operations between Whatcom County Council on Aging and Whatcom County. Whatcom County, its officials, employees, agents, and volunteers are named as Additional Insured regarding this contract only and are subject to policy terms, conditions, and exclusions. Crime Coverage is included in the policy with a limit of \$1,000,000. NPIP retained limit is primary and non-contributory. Auto Liability Coverage includes Hired/Non-Owned Auto. Additional Insured and Waiver of Subrogation endorsements are attached.

- A. With respects to the General Liability Coverage Part only, the definition of **Insured** in the Liability Conditions, Definitions and Exclusions section of this policy is amended to include as an **Insured** the Person or Organization shown in the above Schedule. Such Person or Organization is an **Insured** only with respect to liability for **Bodily Injury, Property Damage, or Personal and Advertising Injury** caused in whole or in part by your acts or omissions or the acts or omissions of those acting on your behalf:
1. In performance of your ongoing operations; or
 2. In connection with your premises owned or rented to you.
- B. The Limits of Insurance applicable to the additional **Insured** are those specified in either the:
1. Written contract or written agreement; or
 2. Declarations for this policy,

whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits Of Insurance shown in the Declarations.

All other terms and conditions remain unchanged.

Includes copyrighted material of the Insurance Services Office, Inc., with its permission.

**AMERICAN ALTERNATIVE
INSURANCE CORPORATION**

**WAIVER OF TRANSFER OF RIGHTS AND RECOVERY
AGAINST OTHERS TO US**

Named Insured Non Profit Insurance Program (NPIP)	
Policy Number N1-A2-RL-0000013-09	Endorsement Effective 6/1/2018

This endorsement modifies insurance provided under the following:

GENERAL LIABILITY COVERAGE PART

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated above.

Schedule

Name of Person or Organization: As Per Schedule on file with Clear Risk Solutions, Underwriting Administrator

The Our Right To Recovery Condition in the Liability Conditions, Definitions and Exclusions form is amended by addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or **Your Work** done under contract with that person or organization. This waiver only applies to the person or organization shown in the Schedule above; however, this waiver does not apply if the injury or damage is due to the sole negligence of such scheduled person or organization.

All other terms and conditions remain unchanged.



MEMORANDUM

RECEIVED

DEC 27 2018

JACK LOUWS
COUNTY EXECUTIVE

TO: Jack Louws, Executive

FROM: Michael McFarlane, Director 

DATE: December 10, 2018

RE: Contract for Services – Bellingham Senior Activity Center

Enclosed are (2) two originals of the Contract for Services Agreement between Whatcom County Parks & Recreation and the Whatcom Council on Aging for your review and signature.

▪ **Background and Purpose**

The renewal of this contract will provide funding to the Whatcom Council on Aging to staff and operate the Bellingham Senior Activity Center. Last year the BSAC served 84,786 seniors. The Scope of Work for this agreement includes coordination of daily on-site operations, programming, enforcing safety procedures, and managing volunteer opportunities.

▪ **Funding Amount and Source**

The contract will be funded by the General Fund in the amount of \$123,748 for 2019 and 2020. This is a 3% increase from 2017-18 to assist with increasing costs. The increase was approved on ASR #2019-5739 in the 2019-20 Budget.