

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:

Originating Department:	85 Health and Community Services
Division/Program: (i.e. Dept. Division and Program)	8530 Community Health / 53020 Healthy Children & Families
Contract or Grant Administrator:	Eric Chambers
Contractor's / Agency Name:	Ferndale School District

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input type="checkbox"/>	No <input 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:
Already approved? Council Approved Date:	(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)		

Is this a grant agreement?	If yes, grantor agency contract number(s):	ALN:	21.027
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		

Is this contract grant funded?	If yes, Whatcom County grant contract number(s):	202105020
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	

Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):	23-87	Contract Cost Center:	1382408
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>			

Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Goods and services provided due to an emergency.
<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):	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, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. 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.
\$ 700,000	
This Amendment Amount:	
\$	
Total Amended Amount:	
\$	

Summary of Scope: This contract provides funding for the purchase and installation of an ADA-compliant playground at the Mountain View Learning Center.

Term of Contract:	20 Months	Expiration Date:	06/30/2026
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Contract Routing:	1. Prepared by:	EC	9/16/2024
	2. Health Budget Approval	SH	09/23/2024
	3. Attorney signoff:	Christopher Quinn	9/23/2024
	4. AS Finance reviewed:	Bbennett	09/27/2024
	5. IT reviewed (if IT related):		
	6. Contractor signed:		
	7. Executive Contract Review:		
	8. Council approved (if necessary):	AB2024-654	
	9. Executive signed:		Date:
	10. Original to Council:		Date:

**AMERICAN RESCUE PLAN ACT (ARPA) AND
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS (SLFRF)**

**SUBRECIPIENT AGREEMENT BETWEEN WHATCOM COUNTY AND FERNDALE SCHOOL DISTRICT
[RE: PUBLIC HEALTH AND ECONOMIC IMPACTS - THE PROVISION AND EXPANSION OF CHILDCARE SERVICES]**

This contract agreement (“Agreement” or “Contract Agreement”) is entered into as of the **9th day of October, 2024** by WHATCOM COUNTY, a municipal corporation in the state of Washington (herein referred to as “the COUNTY”) and **Ferndale School District**, (hereinafter referred to as the “Subrecipient”) in connection with a certain grant and/or loan to Subrecipient under the State and Local Fiscal Recovery Funds (“SLFRF”). The Subrecipient agrees to the terms and conditions of this Agreement to undertake the following: **to expand childcare and early learning programs through the purchase and licensing of ADA compliant playground equipment** (herein referred to as the “Program”). The Subrecipient shall in a satisfactory manner, to be determined in the sole and exclusive discretion of the COUNTY and/or the United States Department of Treasury (“TREASURY”), perform all obligations and duties as contained in this Agreement and any/all addenda.

This Contract Agreement shall mean this agreement, any and all Exhibits hereto (including but not limited to the Program budget), and any and all loan closing documents executed in connection herewith.

Subrecipient:	Ferndale School District
Organization Type:	Public School District
UEID:	G223JDBSLKE7
Federal ID:	91-0882951
Mailing Address:	Ferndale School District 6041 Vista Drive PO box 698 Ferndale, WA 98248
SLFRF (ALN):	21.027
Award Type & Amount (Grant or Loan):	Grant – \$700,000
FAIN:	SLFRP1195
Federal Prime Award:	\$700,000
Federal Prime Award Date:	5/13/2021
Program Address:	Mountain View Early Learning Center 5780 Hendrickson Ave Ferndale, WA 98248
Final Funding Spend Down Date:	June 30, 2026

1. Background and Purpose

Through a competitive bidding process (RFP 23-87) Ferndale School District, (hereinafter, 'Subrecipient') was selected and recommended for funding in the amount of \$700,000 to be used to purchase and install an ADA-compliant playground at their Mountain View Learning Center to accommodate program growth. Recently the Ferndale School District was awarded 58 additional ECEAP slots bringing their total capacity to 151 children age 3-5, 50% of whom have Individuated Educational Programs (IEPs). At least 25% of slots will be reserved for children from families whose income is at or below 80% Area Medium Income (AMI) for the City of Bellingham.

According to the latest census⁵, there are approximately 10,500 children under the age of 5 living in Whatcom County. The total current child care capacity in the County is, however, only 3,686 children enrolled in 106 programs⁶ leaving a substantial service gap. Access to safe and affordable access to childcare is more salient among families at or below the federal poverty line: in a low income needs assessment⁷ conducted by the Opportunity Council, childcare access was ranked as one of the most important needs for families with children under five who also ranked it as lowest in availability across multiple needs.

The COVID-19 pandemic further limited access to safe and affordable childcare in Whatcom County. Across the state, Washington lost approximately 25% of their childcare workers⁸ due to the pandemic and has still not fully recovered. One of the goals of the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) established under the American Rescue Plan Act (ARPA) is to expand and enhancing childcare and early learning services.

2. Period of Performance

The Subrecipient shall commence performance of its obligations under this Contract Agreement on **October 9, 2024** and complete the Program no later than **June 30, 2036** (hereinafter referred to as the "Program Expiration Date"). The Monitoring Phase begins with the end of the Capital Phase and continues for ten (10) years – see Exhibit A (C.).

The Subrecipient agrees that the Program shall not commence, nor shall any costs be incurred or obligated, prior to execution of this Contract Agreement unless approved in writing by the COUNTY.

The Subrecipient agrees that the Program shall be carried out in accordance with the Program Schedule outlined in **Exhibit A** and in no event shall funds be obligated or spent after the final funding spenddown date of June 30, 2026.

3. Method of Payment

Payments will be made by the COUNTY to Subrecipient in the form of reimbursement for monies already spent on eligible Program costs as discussed in further detail in Section 7 of this Contract Agreement. The COUNTY will not reimburse the Subrecipient for any costs or expenses incurred prior to full execution of this Contract Agreement. All payments are contingent upon Subrecipient's continued compliance with the provisions set forth in this Contract Agreement and any/all SLFRF Rules and Regulations 31 CFR Part 35, OMB Uniform Guidance 2 CFR Part 200, TREASURY Requirements, any applicable local, state, and federal laws, and any applicable TREASURY and/or COUNTY policy memo, regulation, communication or guideline, as the same may be amended from time to time.

4. Funding

The total funding will not exceed \$700,000 unless otherwise mutually agreed upon in writing by amendment to this Contract Agreement. Funding is contingent upon the COUNTY's receipt of full TREASURY federal

⁵ <https://www.census.gov/quickfacts/whatcomcountywashington>

⁶ <https://www.oppco.org/wp-content/uploads/2023/04/ELAFS-Community-Needs-Assessment-2023.pdf>

⁷ https://www.oppco.org/wp-content/uploads/2021/10/Community-Needs-Assessment_09.15.21edit.pdf

⁸ <https://aspe.hhs.gov/sites/default/files/documents/71981d3ec3a1d02537d86d827806834b/Child-Care-Trends-COVID.pdf>

funding and authorization from TREASURY to use funds in support of the Program. Any reduction in federal funding may result in reduction or elimination of funding for this Contract Agreement. Termination of this Contract Agreement by the COUNTY at any time during the term, whether for default or convenience, shall not constitute breach of contract by the COUNTY.

5. SLFRF Regulations

The Subrecipient shall conduct all work funded under this Contract Agreement in compliance Exhibits D and E and the following:

- a. SLFRF's Rules and Regulations 31 CFR Part 35, as amended from time to time, and all other federal regulations cited herein;
- b. 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- c. All local, state, and federal laws; and
- d. Any subsequent TREASURY and/or COUNTY Policy Memos, Regulations, Communications, and guidance.

6. Debarment and Suspension

By entering into this Agreement, Ferndale School District hereby certifies that it is not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

By entering into this Agreement, the Subrecipient agrees to comply and assures the compliance of each third-party contractor and subrecipient at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension Non-procurement," 49 C.F.R. Part 29. The Subrecipient further agrees to, and assures that its third-party contractors and Subrecipients will, review the Excluded Parties Listing System at <http://epls.arnet.gov/> before entering into any contracts.

Subrecipient shall obtain and provide to COUNTY written certifications from its contractors regarding debarment, suspension, ineligibility, and voluntary exclusion, including subcontractors obtained after award of the contract.

7. Public Works Requirements

Public Works is governed by RCW 39.04 and other state statutes. Public Works is defined by 39.04.010 to generally include all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein.

The statute excludes "ordinary maintenance," which is generally defined in WAC 296-127-010(7)(b)(iii) (as may be amended) as either (1) work not performed by contract and that is performed on a regularly scheduled basis (e.g., daily, weekly, monthly, seasonally, semi-annually, but at least once per year), to service, check, or

replace items that are not broken; or (2) work not performed by contract that is not regularly scheduled but is required to maintain an asset so that repair does not become necessary.

The Subrecipient shall conduct all work funded under this Agreement in compliance with and pursuant to the provisions of RCW 39.04, including but not limited to competitive bidding requirements, prevailing wages, retainage and performance and payment bonds.

Upon request of the County, the Subrecipient shall provided documentation that confirms Subrecipient's compliance with the requirements of RCW 39.04 and other state statutes concerning Public Works requirements.

8. Program Description, Program Schedule, and Scope of Work

The Subrecipient is responsible for completing the Program in accordance with the approved Program Description, Program Schedule and Scope of Work as outlined in **Exhibit A** attached hereto and made a part hereof. In any instance where the Program Description, Program Schedule and/or Scope of Work may be in conflict with other terms of this Contract Agreement, the Contract Agreement will prevail.

If the Subrecipient wishes to amend the Program Description and/or Scope of Work, the Subrecipient shall seek approval from the COUNTY in writing prior to undertaking any actions relative to such change. Failure to do so may result in termination of this Contract Agreement at The COUNTY's discretion.

9. Reporting/Deliverables

The Subrecipient shall provide quarterly reports as outlined in Exhibit A § E. The County reserves the right to change the reporting frequency as needed and request additional performance measures, output measures, or other information regarding service delivery data for the funding awarded to the Subrecipient for the purpose of ARPA reporting.

10. Program Budget

An approved budget is incorporated and made a part of this Contract Agreement as attached in **Exhibit B** ("Program Budget"). The COUNTY may require a more detailed Program Budget breakdown from time to time. The Subrecipient shall provide such supplementary Program Budget information as required by and on forms provided by the COUNTY upon request.

The Subrecipient shall not obligate, encumber, spend or otherwise utilize SLFRF funds for any activity or purpose not included or not in conformance with the Program Budget unless the Subrecipient has received explicit written approval from the Contract Administrator designated by the COUNTY to undertake such actions, including but not limited to, changes between Program Budget categories.

a. For the purposes of this Contract Agreement, Program Budget categories include:

- i. Architectural, Engineering, and Design Fees
- ii. Site Preparation including Fencing
- iii. Playground equipment and materials
- iv. Installation
- v. Sales Tax

b. The Subrecipient must submit Program Budget category changes as outlined in Exhibit B.1.

The Subrecipient acknowledges that this section has no effect upon the Program Description and or Program Schedule. Any amendment to the Program Description and or Program Schedule must be in writing approved by the COUNTY as provided for elsewhere in this Contract Agreement.

11. Fund Disbursement

The Subrecipient may request reimbursement, no more than once monthly with backup documentation detailing itemized expenditures by activity and cost categories. All SLFRF funds must be requested on the SLFRF Requisition Form provided.

No funds may be disbursed until all required reports and supporting documentation are submitted. The COUNTY reserves the right to request additional compliance documentation before disbursing funds.

The Subrecipient shall not request disbursement of funds until funds are needed for reimbursement of eligible costs. The amount of each request must be limited to the amount needed and the proposed use of the funds must be documented and in accordance with the Program Budget, and all SLFRF regulations/guidance.

In the event the Subrecipient fails to pay contractors, subcontractors, vendors or others with claims against the Program, the COUNTY reserves the right to withhold all remaining program funds until payments and/or all conflicts/liens are resolved. The Subrecipient pledges to undertake contracts and subcontracts and manage payments using mechanisms that protect the interests of the Subrecipient and the COUNTY, such as retaining portions of contracts until completion and requiring bonds, warranties and insurance as appropriate.

The Subrecipient will obtain competitive pricing quotes or bids for all services, contracts or purchases, in compliance 2 CFR 200.317-326 – Procurement Standards.

12. Drug Free Workplace

The Subrecipient shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 USC § 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR part 280, subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Subrecipient shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued which are made apart of this Contract Agreement.

13. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect Contract Agreement assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the COUNTY. Subrecipient shall provide the COUNTY with proof of Commercial General Liability insurance in the amount of one million dollars (\$1,000,000) for each occurrence and One Million Dollars (\$1,000,000) in the aggregate for bodily injury and property damage, naming the COUNTY, its departments, employees, and/or agents, as additional insureds.

The Subrecipient shall also comply with the bonding and insurance requirements of 2 CFR 200.310-Insurance and 2 CFR 200.326, -Bonding.

14. The COUNTY and TREASURY Recognition

The Subrecipient agrees to recognize the role of the COUNTY and TREASURY in providing assistance pursuant to this Contract Agreement by referencing the support provided in all publications and media efforts that relate to this Program. All activities, facilities and items utilized pursuant to this Contract Agreement shall be prominently labeled as to this funding source.

15. Program Income

Program income includes, but is not limited to, income from fees for services performed, the use or rental or real or personal property acquired under Federal awards and principal and interest on loans made with Federal award funds. Program income does not include interest earned on advances of Federal funds, rebates, credits, discounts, or interest on rebates, credits, or discounts. The Subrecipients of SLFRF funds should calculate, document, and record the program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records. The Subrecipient

shall comply with The Uniform Guidance outlines the requirements that pertain to program income at 2 CFR 200.307.

16. Equal Employment Opportunity

During the performance of this Contract Agreement, the Subrecipient must ensure that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subject to discrimination based on race, color, national origin, sex, age, handicap, religion, or religious preference, under any program or activity funded under this Contract Agreement, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC §§ 3601-29) and all implementing regulations, and the Age Discrimination Act of 1975, and all implementing regulations. The Subrecipient shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, sexual orientation (including gender identity), age, marital status, disability, veteran status, or national origin. Such action shall include but not be limited to: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Subrecipient shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this non-discrimination clause. The Subrecipient shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

17. Contractors and Subcontractors

All work supported under this Contract Agreement must comply with the following regulations:

- a. The Copeland Anti-Kickback Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.
- b. The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR parts 70 to 240) applies to contracts over \$100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty (\$10 per day per violation).
- c. Executive Order 11246 - Subrecipients hereby agree to place in every contract and subcontract for construction exceeding \$10,000 the Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity. The Subrecipient furthermore agrees to insert the appropriate Goals and Timetables issued by the Department of Labor in such contracts and subcontracts. The Executive Order also requires contractors with 51 or more employees and contracts of \$50,000 or more to implement affirmative action plans to increase the participation of minorities and women in the workplace if a workforce analysis demonstrates their under-representation, meaning that there are fewer minorities and women than would be expected given the numbers of minorities and women qualified to hold the positions available.
- d. Environmental Laws—All recipients of subgrants in excess of \$150,000 shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- e. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the certification required under the Byrd Anti-Lobbying Amendment, certifying that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352, and disclosing any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
- f. Certain Telecommunications Equipment—Grant funds may not be used to contract, re-contract, procure, or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of

any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- g. Domestic Preference—As appropriate and to the extent consistent with law, the subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, as defined by 2 CFR § 200.322(b).
- h. Debarred and Suspended Contractors - Subrecipients shall not enter into any agreement, written or oral, with any contractor without the prior determination by the COUNTY of the contractor's eligibility. A contractor or subcontractor is not eligible to receive funds if the contractor is listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.
- i. The Subrecipient will obtain competitive pricing quotes or bids for all contracts or purchases, in compliance with 2 CFR 200.319.

18. Right to Monitor

The COUNTY shall have the right to monitor Subrecipient's compliance with all applicable SLFRF Program requirements by whatever means the COUNTY deems appropriate. This right shall continue throughout and until the COUNTY's grant closeout with TREASURY or for a 10-year period following the execution of this Contract Agreement, whichever period is longer in duration.

19. Right to Inspect

The COUNTY, its agents and designees, shall have the right, from time to time, to inspect the Program site for purposes of ensuring compliance with the terms and conditions of this Contract Agreement and SLFRF's Rules and Regulations.

Subrecipient agrees to permit the COUNTY, its agents and designees (i) to have reasonable access to the SLFRF assisted program meetings or events, and (ii) to examine its books and records, including all financial statements and records, from time to time, insofar as the same may apply to Subrecipient's use of the SLFRF funds. Subrecipient further agrees to furnish such other information to the COUNTY, as and when requested, for the purpose of determining Subrecipient's compliance with this Contract Agreement and SLFRF's Rules and Regulations.

20. Record Retention and Access to Records

Subrecipient agrees that the COUNTY, TREASURY, the Comptroller General of the United States or any of their authorized representatives, has the right to access the Program and any books, documents, papers or other records of Subrecipient or the Program, which are pertinent to this Contract Agreement in order to make audits, examinations, excerpts or transcripts. Subrecipient will maintain all books and records pertaining to this Contract Agreement throughout and until the COUNTY's grant closeout with TREASURY or for a 10-year period following the execution of this Contract Agreement, whichever period is longer in duration.

21. Limitation of Liability

Subrecipient acknowledges that COUNTY shall not be liable to Subrecipient for the completion of, or the failure to complete, any activities, which are a part of the Program contemplated by this Contract Agreement. Subrecipient acknowledges that should the COUNTY find a material default or noncompliance with this Contract Agreement, as determined by the COUNTY in its sole discretion and, as a result thereof, cease disbursement of SLFRF funds, the COUNTY shall incur no liability to Subrecipient.

22. Subrecipient Responsibilities and Indemnification for Non-compliance

Subrecipient is responsible for performing each and every activity comprising the Program in a manner that complies with all aspects of the SLFRF program and the guidance provide. Subrecipient represents that it has accurately and completely described the Program in its Application and, except as otherwise agreed in writing, is responsible for bearing the full cost and expense of execution thereof and of continued compliance with the SLFRF program. In the event TREASURY disallows any Program cost paid in whole or in part with

SLFRF funds, Subrecipient shall indemnify, defend and hold the COUNTY harmless against any resulting loss, including reasonable attorneys' fees.

23. Indemnification Generally

Subrecipient shall defend, hold harmless and indemnify the COUNTY, its agents and assigns, from and against any and all claims, losses, expenses, costs, and/or damages (including, without limitation, out-of-pocket expenses, reasonable attorneys' fees and costs, and other related expenses) arising out of, in connection with, or resulting from the performance contemplated by this Agreement, including but not limited to (i) any injury or damage to persons or property that may occur as a result of work performed in connection with its SLFRF Program, (ii) any third party, including without limitation, development professionals and contractors who may be engaged by Subrecipient; and (iii) any third party claiming that a third party beneficiary relationship has been established between the COUNTY and such third party, it being the intention of the parties hereto that no such relationships be created or established.

Subrecipient's indemnification of the COUNTY shall survive the disbursement of any funds hereunder and the termination of this Contract Agreement.

24. No Delegation of Duties

Subrecipient shall remain fully obligated under the provisions of this Contract Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Program. Any party or parties so designated shall also be obligated to perform such duties under the same restrictions and requirements as if Subrecipient were performing them.

25. Conflicts of Interest

Subrecipient must maintain a written conflict of interest policy governing the performance of all persons engaged in the award and administration of contracts that comply with 2 CFR 200.112 and 2 CFR 200.318 as applicable. No person, employee, agent, consultant, officer, director or elected official or appointed official of Subrecipient who exercises or has exercised any function or responsibilities with respect to activities assisted with SLFRF funds or who is in a position to participate in a decision-making process or to gain inside information with regard to these activities, may obtain a financial interest or benefit from a SLFRF-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. Subrecipient must provide a copy of its written conflict of interest policy to the COUNTY upon its request.

The Subrecipient covenants that its employees have no interest and will not acquire an interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of services hereunder. The Subrecipient further covenants that in the performance of this Contract Agreement, no person having such interest will be employed.

26. Privacy Protection

Subrecipient must establish and adhere to a written policy for the protection of non-public personal information collected in the course of Subrecipient's activities under this Contract Agreement. The COUNTY shall have the right to review this policy and to require additional measures to ensure adequate protection of such private information. Review shall be strictly limited to whether such policy complies with the COUNTY requirements. In no event may any statement by the COUNTY be construed as an opinion on whether a privacy policy complies with the requirements of any law, regulation, institution, government or court. Nor may any statement by the COUNTY be used by Subrecipient for any purpose whatsoever, except as necessary to correct or improve Subrecipient's practices, without the COUNTY's prior written consent.

27. Minority/Women's Business Enterprises

Subrecipient agrees to develop and implement an outreach program for minority and women business enterprises. Furthermore, the Subrecipient will maintain the records of such outreach program, including the data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract to be paid with SLFRF Funds, as well as additional details regarding the amount of the contract, subcontract, and documentation of Subrecipient's steps to assure that minority business and women's

business enterprises have an equal opportunity to compete for contracts and subcontracts as sources of supplies, equipment, construction and services.

28. Religious Organizations

Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the SLFRF program. The Subrecipient shall not, in carrying out this Contract Agreement, discriminate against a potential client or tenant or vendor on the basis of religion or religious belief. If the Subrecipient engages in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, the Subrecipient must perform such activities and offer such services outside of any part of this Program and separately, in time and location, from the activities funded under this Contract Agreement.

29. Reliance Upon Information

The commitment of SLFRF funds under this Contract Agreement has been made in part on the basis of certain financial and other information furnished to the COUNTY by Subrecipient. SLFRF Funds may be withdrawn or recaptured by SLFRF at any time if the information furnished by Subrecipient should prove to be untrue or incorrect in any material respect, or if SLFRF should determine that it is inadvisable to fund the Program because of a material and adverse change in the condition of Subrecipient and/or the Program as determined by SLFRF in its sole discretion.

30. Programmatic Changes

Any program changes not expressly contemplated by this Agreement must be executed through a written Contract Amendment.

31. Subrecipient Reporting, Audit, and Record Keeping Requirements

The Subrecipient must retain certain records and must submit to the COUNTY quarterly, or at such other intervals as requested, any information, documents or certifications requested by the COUNTY which the COUNTY deems reasonably necessary to substantiate Subrecipient's continuing compliance with the provisions of all applicable SLFRF program rules, guidelines, criteria, and regulations. Reports must be submitted in such format as prescribed by the COUNTY. The COUNTY shall retain the right to change reporting requirements from time to time as it deems necessary.

Subrecipient must maintain records for inspection by the COUNTY. These include, but are not limited to:

- a. Records of all SLFRF program-related account transactions including deposits, disbursements, and balances.
- b. Records supporting requests for payment and disbursement of funds.
- c. Records indicating the source and amount of any repayment, interest and other return on investment of SLFRF funds.
- d. Records of all written agreements and contracts pertaining to SLFRF Program.
- e. Records supporting a competitive bid process of procurement
- f. Audits and resolution of audit findings.
- g. Any program fees or program income collected.
- h. Efforts to recruit MBEs and WBEs.

The following records and reports must be submitted to the COUNTY:

- a. Monthly programmatic narrative updates and expense reports with supporting documentation of program expenses.
- b. Close out reports shall be submitted no later than 15 days following the final drawdown of SLFRF funds on forms provided by the COUNTY.
- c. Staff payroll and benefit reports and timesheets, if applicable

- d. Financial documents, terms of agreement, and contracts upon request.
- e. Records of all transactions
- f. Any other program information as requested by the COUNTY from time to time.

32. Close-out

The Subrecipient's obligation to the COUNTY shall not end until all close-out requirements are completed. Activities during this close-out period shall include but are not limited to:

- a. Making final payments;
- b. Disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the COUNTY; and
- c. Determining custodianship of records.

Notwithstanding the foregoing, the terms of this Contract Agreement shall remain in effect during any period that the Subrecipient has control over SLFRF funds, including program income.

33. Audit Standards

Subrecipient agrees to comply with the audit standards outlined in Subpart F of 2 CFR Part 200-Audit Requirements, and to prepare an audit within two hundred seventy (270) days after the close of any fiscal year in which Subrecipient expends federal awards of at least \$750,000 (or such other amount as specified by the Director of the Office of Management and Budget). Audits must comply with the provisions of OMB Uniform Guidance 2 CFR Part 200, must be conducted by an independent certified public accountant ("CPA"), and must include a management letter and any responses thereto and CPA-prepared financial statements. Such financial statements must include a balance sheet, operating statements, source and use of funds statement, Schedule of Expenditures of Federal Awards and sufficient supporting schedules and notes as may be necessary for the COUNTY to determine the financial status of Subrecipient's activities. If such audit contains material findings, Subrecipient must provide a copy of the audit, together with any comments and plans for correction, to the COUNTY. If such audit contains no material findings, Subrecipient is not required to submit a copy to the COUNTY unless otherwise required by the terms of this Contract Agreement; provided, however, that upon request Subrecipient must provide a copy of any and all audits performed during the term of this Contract Agreement to the COUNTY, TREASURY, or any designee thereof. The COUNTY reserves the right, in its sole discretion, to require an audit of any Subrecipient that expends federal funds during its fiscal year, regardless of amount. Subrecipient acknowledges that, in the event the COUNTY requires an audit, SLFRF administrative funds may not be used to offset the costs associated with the audit. Subrecipient assumes full responsibility for compliance with this paragraph.

34. Financial Management System

Subrecipient will establish and maintain a financial management system pursuant to 2 CFR Part 200, Subpart D that will provide for a) accurate, current, and complete disclosure of the financial results of the functions and services performed under this Contract Agreement; and b) record and identify the source and application of funds for the activities, functions and services performed pursuant to this Contract Agreement. These records will contain information pertaining to federal and state funds received, and assets, liabilities, expenditures, and income; c) effective control over and accountability for all funds, property, and other assets. Subrecipient will safeguard all such assets and will assure that they are used solely for authorized purposes as provided in this Contract Agreement; and d) accounting records that are supported by source documentation.

35. Repayment of Investment, Time Limits for Performance,

In the event that the Program is not completed in compliance with the requirements of this Contract Agreement, whether voluntarily or otherwise, an amount equal to the SLFRF funds disbursed for the Program must be repaid to the COUNTY. Any Program assisted with SLFRF funds that does not meet the national objective as outlined on page 1 of this Contract Agreement and as outlined in the Scope of Work will require repayment in full of the SLFRF funds for that Program to the COUNTY.

36. Uniform Administrative Requirements

Subrecipients funded under the SLFRF program must comply with applicable uniform administrative requirements as described in 2 CFR Part 200.

37. Subrecipient's Covenants and Agreements

Subrecipient covenants and agrees with the COUNTY as follows:

- a. All SLFRF funds shall be allocated to units to be occupied by persons or families meeting the income qualifications required by the SLFRF Rules and Regulations;
- b. To complete the program by the program expiration date;
- c. To comply with the COUNTY's guidance, 2 CFR 200 Uniform Guidance, and the TREASURY regulations pertaining to the SLFRF Program, as amended from time to time.

38. Subrecipient's Representations.

Subrecipient represents to the COUNTY as follows:

- a. It has no knowledge of any notices or violations of federal or state statutes or regulations or municipal ordinances or orders, or requirements of any governmental body or authority to whose jurisdiction any of the real estate making up the SLFRF Program is subject;
- b. Its execution, delivery and carrying out of the terms and conditions of the Application and this Contract Agreement have been duly authorized by an officer with the ability to obligate Subrecipient to this Agreement and will not conflict with or result in a breach of its Articles of Incorporation or by-laws, or any vote of members or directors or of the terms or provisions of any existing law, regulation or order of any court or government body or authority or agreement to which it is a party or by which it is bound;
- c. There has been no material adverse change in its financial condition since the filing of its Application;
- d. The representations, warranties and statements of fact of Subrecipient as set forth in the Application and this Contract Agreement are true, accurate and complete in all material respects as of the date hereof;
- e. It has not failed to provide the COUNTY with any material information necessary to make the representations, warranties, and statements contained herein; and are not misleading, in light of the circumstances under which they were made;
- f. The Subrecipient has duly authorized the officer executing this Contract Agreement to execute, in its name and on its behalf, this Contract Agreement and all such other documents and instruments as the COUNTY may request in connection therewith; and
- g. The Subrecipient has no knowledge of any existing, threatened or pending actions by any person or governmental authority against it which would have a material adverse effect on its ability to acquire and complete any necessary construction or renovations to the proposed activity.

39. Survival of Agreements

All agreements, covenants, representations, and warranties made in the Subrecipient's Application and this Contract Agreement including Exhibits hereto shall survive the making of any loan hereunder and the termination of this Contract Agreement.

40. Events of Default and Pursuit of Remedies

The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

- a. Any breach or non-compliance by Subrecipient with the conditions, provisions, obligations, duties, agreements, covenants, representations and warranties made and set forth in this Contract Agreement and any/all accompanying closing documents, SLFRF Rules and Regulations, 2 CFR Part 200, TREASURY Requirements, any applicable local, state, and federal laws, and any

applicable TREASURY and/or COUNTY policy memo, regulation, communication or guideline as the same may be amended from time to time, as determined by the COUNTY in its sole discretion; or

- b. Any representation or warranty made herein or in any/all Subrecipient applications, accompanying closing documents, addenda, exhibits, amendment, binder, and/or other instrument executed in connection with this Contract Agreement is proven to be false or misleading in any respect, whether through commission or omission.

Upon the occurrence of an Event of Default, the COUNTY may, at its option, send Subrecipient a Notice of Default stating that Subrecipient has thirty (30) days to cure said default. In the event Subrecipient fails to cure said default within thirty days, the COUNTY may, upon ten (10) business days' notice, terminate or suspend this Contract Agreement and declare the entire outstanding balance, plus any interest accruing from the date hereof, to be immediately due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by Subrecipient. Subrecipient agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by the COUNTY in collection of the moneys due hereunder or in the exercise or defense of its rights and powers under this Contract Agreement. In addition, the COUNTY may pursue any other remedies, legal or equitable, available to it in the event of Subrecipient's default, fraud or misrepresentation, whether through commission or omission.

41. Termination

This Contract Agreement shall remain in effect for the period defined on page two (2), Section 2. Period of Performance, of this Contract Agreement.

In accordance with 2 CFR 200.338, the COUNTY may suspend or terminate this Contract Agreement if the Subrecipient materially fails to comply with any terms of this Contract Agreement, which include (but are not limited to) the following:

- a. Failure to comply with COUNTY guidance and any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and TREASURY guidelines, policies or directives as may become applicable at any time;
- b. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Contract Agreement;
- c. Ineffective or improper use of funds provided under this Contract Agreement; or
- d. Submission by the Subrecipient to the COUNTY of reports that are incorrect or incomplete in any material respect.

The COUNTY may terminate this Contract Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

The COUNTY may also terminate this Contract Agreement 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 Contract Agreement, and prior to its normal completion. The COUNTY may summarily terminate this Contract Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice (which includes electronic mailing), whichever occurs first.

42. No Waiver

No delay or omission by the COUNTY to exercise any of its rights hereunder shall constitute an assent or waiver by it to or of Subrecipient's breach of or noncompliance with the terms of this Contract Agreement, whether The COUNTY has knowledge of such breach or noncompliance, and no other assent or waiver, express or implied, by the COUNTY to or of any such breach or noncompliance shall be deemed as assent or waiver of any other or succeeding breach or noncompliance.

43. Benefit

This Contract Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns; provided, however, that no assignment by Subrecipient of its rights under this Contract Agreement shall be of any effect unless the prior written consent of the COUNTY to such assignment has been first obtained.

44. Severability; Survivability

If any provision of this Contract Agreement shall be deemed unenforceable or invalid, such provision shall not affect, impair or invalidate any other provision of this Contract Agreement. Any provision of this Contract Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The terms of this Contract Agreement shall survive the closing of any loan or grant contemplated by this Contract Agreement.

45. Governing Law

This Contract Agreement is being executed and delivered in the State of Rhode Island and shall in all respects be governed, construed, applied and enforced in accordance with the laws of said State, irrespective of its conflict of law provisions.

46. Section Headings and Subheadings

The section headings and subheadings contained in this Contract Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Contract Agreement.

47. Notices

All notices to be given pursuant to this Contract Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing:

To the COUNTY:

Eric Chambers, Special Projects Manager
509 Girard Street
Bellingham, WA 98225
ekchambe@co.whatcom.wa.us

To the SUBRECEIPIENT:

Dr. Kristi Dominquez, Superintendent
Ferndale School District
6041 Vista Drive
PO Box 698
Ferndale, WA 98229
360.383.9200

48. Changes to the Agreement

The terms of the Contract Agreement may be changed by executing an amendment or new agreement at the sole discretion of the COUNTY. Certain terms of the Contract Agreement, such as the Program Budget line items or Program Schedule, may be changed by written approval by the COUNTY or as provided herein.

Amendments shall make specific reference to this Contract Agreement, will be executed in writing, and signed by duly authorized representatives of each party. Such amendments shall not invalidate this Contract Agreement, nor relieve or release the COUNTY or the Subrecipient from its obligations under this Contract Agreement.

The COUNTY may, in its discretion, amend this Contract Agreement to conform with federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons. If such amendments result in a change in the funding, Scope of Work, or Program Schedule of the activities to be undertaken as part of this Contract Agreement, such modifications will be incorporated only by written amendment signed by both the COUNTY and the Subrecipient.

49. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall be deemed to be one and the same instrument.

50. List of Exhibits

Exhibit A: Program Description, Program Schedule, and Scope of Work

Exhibit B: Program Budget

Exhibit C: Certificate of Insurance

Exhibit D: ARPA Subrecipient Requirements

Exhibit E: Eligible Use Memorandum

Exhibit F: Subaward Information

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement on:

The COUNTY and the Subrecipient agree to the conditions in the Contract Agreement and all Exhibits hereto and sign to that effect:

WHATCOM COUNTY:

Recommended for Approval:

Ann Beck, Community Health & Human Services Manager Date

Erika Lautenbach, Health and Community Services Director Date

Approved as to form:

Christopher Quinn, Chief Civil Deputy Prosecutor Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive Date

SUBRECIPIENT:

Ferndale School District
6041 Vista Drive
PO Box 698
Ferndale, WA 98229
360.383.9200
Kristi.dominguez@ferndalesd.org

Dr. Kristi Dominguez, Superintendent Date

Exhibit “A”
(PROGRAM DESCRIPTION, PROGRAM SCHEDULE AND SCOPE OF WORK)

A. Program Description:

The Subrecipient will use the funds purchase and install accessible playground equipment to support an increase in enrollment secondary to receiving 58 additional [Early Childhood Education and Assistance Program \(ECEAP\)](#) slots bringing their total capacity to 151 children age 3-5, 50% of whom have Individualized Educational Programs (IEPs).

B. Program Schedule:

Date	Activity	Milestone
October 2024	Project Kickoff	Project kick off meeting
November 2024	Planning and Design Approval	Approved designs
January 2025	Procurement	Procurement documents
March 2025	Installation	Installation completed
May 2025	Inspection and testing	Inspection reports
June 2025	Project Closeout	Close out meeting
July 2025	Monitoring	Quarterly reports; annual visit.

C. Scope of Work:

The Subrecipient will purchase and install playground equipment at Mountain View Learning Center. The Subrecipient will be reimbursed for associated costs for professional planning services, site preparation, and purchase and install the equipment, as outlined in Exhibit B. Project implementation will occur in two phases: Capital and Monitoring. The Capital Phase begins with the receipt of a fully executed contract between Whatcom County and the subrecipient and will conclude with the equipment installed and inspected. The Monitoring Phase begins with the end of the Capital Phase and continues for ten (10) years.

1. During the Capital Phase, the Subrecipient will:

- a. Attend a “Kickoff” meeting with Whatcom County Staff.
- b. Pre the site and purchase and install the playground equipment.
- c. Complete all required inspections and correct any deficiencies noted.
- d. Attend a transition meeting with Whatcom County Staff, including site inspection.

2. During the Monitoring Phase, the Subrecipient will:

- a. Operate as a licensed early learning facility for a period of at least ten (10) years.
- b. Report any licensing inspections that result in an adverse finding including, but not limited to, compliance action, enforcement action, facility licensing compliance agreements, or loss of license within fourteen (14) days of notification.
- c. Provide a minimum 125 ECEAP slots as outlined below. For the purposes of compliance, a slot is defined as either a part-time slot, a full-time slot, or a working day slot. A part-time slot is at least 3 hours per day and less than 5.5 hours a day and is the equivalent to 0.5 slots. A full-time slot is at least 5.5 hours to 9.5 hours and is the equivalent to 1.0 slots. A working day slot is 10 hours per day and is equivalent to 1.5 slots. To meet the requirements below, any combination of part-time, full-time, or working day slots may be used.
- d. Collect, at a minimum, the following demographic information for each child at intake: age and income status for those filling low income slots.

- e. Provide a minimum of 25% of all slots for children from households that have income 80% or lower than the current area median income (AMI) for the City of Bellingham. Families that qualify for assistance through the Working Connections Child Care Program are also eligible. For the purposes of compliance with this requirement the County will update the subrecipient each year, on or about January 1, with the most current AMI.

3. During both the Capital and Monitoring Phases, the Subrecipient will:

- a. Maintain site control of the playground.
- b. Maintain books, records, documents, and other evidence directly related to the performance of the work in accordance to Generally Acceptable Accounting Principles (GAAP) when applicable, in which Whatcom County, or any of its duly authorized representatives, shall have access to for inspection and audit for a period of five years beyond the last date of service. The last date of service, as described in Section II, is ten (10) years after the end of the Capital Phase. Specifically,
 - 1. Records used to determine financial eligibility of families.
 - 2. Invoices and supporting documentation, including procurement records, for all reimbursable expenses.
 - 3. Any applicable Whatcom County playground inspection and modifications.
 - 4. Permits and inspection reports for the playground.
 - 5. Document and make available, information regarding their acquisition activities, service delivery model, experience working with the County, and experience with ARPA SLFRF funds.

4. Reporting and Monitoring:

Clear communication during the **Capital Phase** is essential to project success. During the Capital Phase the Subrecipient is responsible for providing the following information to the County Designee.

- a. Monthly progress reports, due on the first of each month. Progress reports must include, at a minimum, the following:
 - 1. Progress including any milestones achieved
 - 2. Outline of a plan for the coming month
 - 3. Any problems experience, including delays.

5. During the Monitoring Phase, the Subrecipient is responsible for providing the following information to the County Designee.

- a. Quarterly Utilization Reports, due on the 15th of the month following the completion of the previous quarter. Quarters are defined as follows:
 - 1. First Quarter: January 1 through March 31
 - 2. Second Quarter: April 1 through June 30
 - 3. Third Quarter: July 1 through September 30
 - 4. Fourth Quarter: October 1 through December 31
- b. Quarterly reports must include the following:
 - 1. Average # of part-time, full-time, and work-time slots filled.
 - 2. Average # of part-time, full-time, and work-time slots filled with qualifying child.
 - 3. Average # of toddlers, preschool-aged, and school-age children. Following WAC 100-300-0005, a "toddler means a child 12 months through 29 months," a preschool-aged child is '30 months

through 6 years of age not attending kindergarten or elementary school” and a school aged child is one “who is five years of age through 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.”

- c. A qualifying child is one that resides with a family whose income is 80% or lower than the current area median income (AMI) for the City of Bellingham or that qualify for assistance through the Working Connections Child Care Program.

The County reserves the right to request additional related documentation, including but not limited to; contracts and lower-tier Subrecipient agreements, permits, environmental assessments, Whatcom County inspection reports, inspection reports.

During both the Capital and Covenant Phases, when an event of unusual and significant nature occurs, whether or not directly related to the project, the Subrecipient is responsible for notifying the County Designee as soon as reasonably possible with the chain of events, persons participating, response, and other pertinent information.

6. Project Closeout:

Project closure occurs when the following conditions have been met:

- a. The County has satisfied their financial commitment to the subrecipient.
- b. The Subrecipient has operated a licensed child care center with the additional slots for a period of ten (10) years beyond the Capital Phase.
- c. The Subrecipient has resolved all monitoring and compliance issues, if any, with the County.
- d. The Subrecipient has participated in an exit interview with the County designee.

7. Inconsistencies:

In the event inconsistencies or disputes among this contract, the initiating RFP, the Subrecipient’s response, or other documents, the following order of precedence shall prevail in descending order of priority:

- a. Applicable Federal, Washington State, and Whatcom County statutes, codes, regulations, ordinances and the like.
- b. This Contract Agreement.
- c. The revised preliminary award letter signed by Ann Beck, MSW, signed on April 17, 2024.
- d. Request for Proposal # 23-87 including all addenda, issued by Whatcom County.
- e. The subrecipients response to RFP #23-87.

EXHIBIT "B"
(PROGRAM BUDGET)

The Contractor will purchase and install ADA compliant playground equipment at their Mountain View Learning Center. The Contractor will be reimbursed for associated costs to prepare the site, install fencing, and install purchase and install the playground equipment.

Funding for this contract may not exceed \$700,000. Funding is provided by the American Rescue Plan Act (ARPA – ALN 21.027) and will be disbursed on a reimbursement basis to the Contractor subject to the terms and conditions outlined in Exhibit B1 and B2.

In addition to the Contractor-generated invoice, the Contractor must provide sufficient backup documentation to demonstrate that the expenses are allowable under the terms of this contract. Backup documents must include paid invoices and receipts provided by subcontractors. In addition, the first time the Contractor submits an invoice for a new product or service, invoices must include:

- The Vendor’s intent to pay prevailing wage ID number, issued by the Washington State Labor and Industry upon filing the “Statement Intent to Pay Prevailing Wages”, when applicable; and
- Procurement documentation.

Approved goods and services include:

Cost Description	*Budget
Site Preparation, project management, and taxes	\$100,000
Fencing, including installation and taxes	\$45,000
Inclusive Plan Structure, including installation, project management, freight, and taxes	\$544,409
Contingency	\$10,591
Total Budget:	\$700,000

Contractor’s Invoicing Contact Information:	
Name	
Phone	
Email	

Refer to Exhibits B.1 and B.2 for additional invoicing requirements and information.

EXHIBIT “B.1” – Invoicing – General Requirements

1. When applicable, the contractor may transfer funds among budget line items in an amount not to exceed 10% of the total budget. Line item changes that exceed 10% must be pre-approved by the County Contract Administrator, prior to invoicing.
2. When applicable, indirect costs and fringe benefit cost rates may not exceed the amount indicated in Exhibit B or the Contractor’s federally approved indirect cost rate.
3. The Contractor shall submit invoices indicating the County-assigned contract number to:
HL-BusinessOffice@co.whatcom.wa.us and EKChambe@co.whatcom.wa.us
4. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County and by the 15th of the month, following the month of service, except for January and July where the same is due by the 10th of the month.
5. When applicable, the Contractor will utilize grant funding sources in the order of their expiration date as indicated by the County, prior to spending local funding sources, when no funding restrictions prevent doing so.
6. The contractor shall submit the required invoice documentation identified in Exhibit B.
 - a. The County reserves the right to request additional documentation in order to determine eligible costs. Additional documentation must be received within 10 business days of the County’s request.
 - b. When applicable, if GL reports for personnel reimbursement do not specify position titles, additional documentation must be provided that includes staff name and position title.
 - c. When applicable, mileage will be reimbursed at the current GSA rate (www.gsa.gov). Reimbursement requests for mileage must include:
 1. Name of staff member
 2. Date of travel
 3. Starting address (including zip code) and ending address (including zip code)
 4. Number of miles traveled
 - d. When applicable, travel and/or training expenses will be reimbursed as follows:
 1. Lodging and meal costs for training are not to exceed the current GSA rate (www.gsa.gov), specific to location.
 2. Ground transportation, coach airfare and ferries will be reimbursed at cost when accompanied by receipts.
 3. Reimbursement requests for allowable travel and/or training must include:
 - a. Name of staff member
 - b. Dates of travel
 - c. Starting point and destination
 - d. Brief description of purpose
 - e. Receipts for registration fees or other documentation of professional training expenses.
 - f. Receipts for meals are not required.
7. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from the Contractor.
8. The County may withhold payment of an invoice if the Contractor submits it or the required invoice documentation, more than 30 days after the month of services performed and/or the expiration of this contract.
9. Invoices must include the following statement, with an authorized signature and date: **I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.**
10. Duplication of billed costs or payments for service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.

EXHIBIT "B.2" – Invoice Preparation Checklist for Vendors

The County intends to pay you promptly. Below is a checklist to ensure your payment will be processed quickly. Provide this to the best person in your company for ensuring invoice quality control.

Send the invoices to the correct address:

HL-BusinessOffice@co.whatcom.wa.us and EKChambe@co.whatcom.wa.us

Submit invoices monthly, or as otherwise indicated in your contract.

Verify that:

- the time period for services performed is clearly stated and within the contract term beginning and end dates. Also verify any other dates identified in the contract, such as annual funding allocations;
- invoice items have not been previously billed or paid, given the time period for which services were performed;
- enough money remains on the contract and any amendments to pay the invoice;
- the invoice is organized by task and budget line item as shown in Exhibit B;
- the Overhead or Indirect Rate costs match the most current approved rate sheet;
- the direct charges on the invoice are allowable by contract. Eliminate unallowable costs.
- personnel named are explicitly allowed for within the contract and the Labor Rates match the most current approved rate sheet;
- back-up documentation matches what is required as stated in Exhibit B and B.1;
- contract number is referenced on the invoice;
- any pre-authorizations or relevant communication with the County Contract Administrator is included; and
- Check the math.

Whatcom County will not reimburse for:

- Alcohol or tobacco products;
- Traveling Business or First Class; or
- Indirect expenses exceeding 10% except as approved in an indirect or overhead rate agreement.

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)

Prior to the release of funds under this agreement, the Contractor must provide evidence of insurance out outlined in Section 13. of this Contract Agreement.

EXHIBIT "D"

(AMERICAN RESCUE PLAN ACT SUBRECIPIENT REQUIREMENTS)

1. COMPLIANCE WITH LAWS

- A. The Contractor and the County shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to United States Laws, Regulations and Circulars (Federal).
- B. The Contractor shall comply with the American Rescue Plan Act of 2021, PL 117-2, Section 9901 regarding allowable expenditures. (The Contractor shall also comply with all federal guidance regarding the Coronavirus State and Local Fiscal Recovery funds, including the Final Rule at 31 CFR Part 35 and U.S. Treasury FAQs.
- C. The Contractor shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- D. Other federal regulations applicable to this award include:
- (i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - (ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R., Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - (iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 80 (including the requirement to include a term or condition in all lower tier covered transaction (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - (iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - (v) Governmentwide Requirement for Drug-Free Workplace, 31 CFR Part 20.
 - (vi) New Restrictions on Lobbying, 31 CFR Part 21 and Byrd Anti-Lobbying Amendment at 31 U.S.C § 1352 (as amended).
 - Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.
 - By signing this agreement, the Contractor certifies, to the best of its knowledge and belief that:
 - No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress,

or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

- (vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 USC §§ 4601-4655) and implementing regulations
 - (viii) Generally applicable federal environmental laws and regulations, including but not limited to the:
 - Clean Air Act, as amended, 42 U.S.C § 7401 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the United States Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the American Rescue Plan Act
 - Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the United States Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the American Rescue Plan Act.
- E. The Contractor shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.
- F. The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of Services under this Agreement. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

- (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the grounds of race, color, or national origin under program or activities receiving federal financial assistance.
 - (ii) The Fair Housing Act, Title VII-IX of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;
 - (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;
 - (iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis or age in programs or activities receiving federal financial assistance; and
 - (v) The American with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities and services provided or made available by state and local governments or instrumentalities or agencies thereto.
 - (vi) The Contractor shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this Agreement.
- G. Contractor understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Contractor must disclose in writing to Department of Treasury, or the County, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
- H. Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
- I. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving.
- J. In accordance with 41 U.S.C. § 4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- (i) A member of Congress or a representative of a committee of Congress;
- (ii) An Inspector General;
- (iii) The Government Accountability Office;
- (iv) A Treasury employee responsible for contract or grant oversight or management;
- (v) An authorized official of the Department of Justice or other law enforcement agency;
- (vi) A court or grand jury; or

- (vii) A management official or other employee of Contractor, or lower-tiered Contractor, who has the responsibility to investigate, discover, or address misconduct.

Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

- K. Contractor acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federal assisted programs and activities for individuals who, because of national denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Contractor's programs, services, and activities.
- L. Contractor agrees to consider the need for language services for LEP persons when Contractor develops applicable budgets and conducts program, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067.
- M. Contractor acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Contractor, Contractor's successors, transferees, and assignees for the period in which such assistance is provided.
- N. Contractor acknowledges and agrees that it must require any Contractors, lower-tiered Contractor, successors, transferees, and assignees to comply with assurances contained in sections J, K, L and M herein-above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Contractor and the Contractor's sub-grantees, Contractors, lower-tiered Contractor, successors, transferees, and assignees:

The Contractor, lower-tiered Contractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

2. ACKNOWLEDGEMENT OF FEDERAL FUNDS

Grant Funds paid out under this Agreement are made available and are subject to Section 603(b) of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021. From and after the effective date of this Agreement, the Contractor agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Agreement, shall contain the following statement(s):

This project was supported, in whole or in part, by American Rescue Plan Act funding awarded to Whatcom County by the U.S. Department of Treasury.

3. REPAYMENT OF FUNDS TO THE COUNTY

- A. The Contractor shall return Grant Funds disbursed to it by the County under this Agreement for return by the County to the U.S. Department of the Treasury, upon the occurrence of any of the following events: (a) if overpayments are made by the County; or (b) if an audit of the Services by the U.S. Department of the Treasury, the State, or the County determines that the funds have been expended for purposes not permitted by 42 USC § 803(c)(1), 31 CFR Part 35, U.S. Treasury FAQs, the U.S. Department of the Treasury, the County, state law, or this Agreement. In such a case, the County shall make a written demand upon the Contractor for repayment, and the Contractor shall be obligated to repay to the County the funds demanded within sixty (60) calendar days of the demand.

- B. No exercise by the County of the right to demand repayment of funds from the Contractor shall foreclose the County from making an additional demand for repayment if a return of additional funds is required by the U.S. Department of the Treasury; the County's right to demand repayment from the Contractor may be exercised as often as necessary to recoup from the Contractor all funds required to be returned by the County to the U.S. Department of the Treasury.
- C. The Contractor is solely responsible for seeking repayment from any lower-tiered Contractor in conformance with its debt collection policy.

4. NONDISCRIMINATION AND EQUAL OPPORTUNITY

A. General Provisions

Contractor shall make the facilities available to the public in a manner that assures fair, equal, and non-discriminatory treatment to all persons without regard to race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability. No personnel shall be refused service, be given discriminatory treatment, be denied any privilege, use of facilities, or participation in activities on account of race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability, nor shall any person be required to participate in any religious worship, exercise, or instruction. The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction.

B. Equal Access to Housing Regardless of Sexual Orientation or Gender Identity

Contractor shall abide by all provisions of the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, as set forth in 24 CFR, Parts 5 and 570. These provisions ensure that any qualified individual or family is not denied equal access to housing. In addition, the RECIPIENT shall not inquire about the sexual orientation or gender identity of an applicant for, or occupant of, housing assisted under this Agreement.

C. Housing Preferences

Projects which have committed to limit eligibility or preference to a particular segment of the population may do so only if permitted by Fair Housing Act restrictions.

Any limitation or preference in housing must not violate nondiscrimination provisions in 24 CFR § 92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR part 574, the Shelter Plus Care program under 24 CFR part 582, the Supportive Housing program under 24 CFR part 583, supportive housing for the elderly or persons with disabilities under 24 CFR part 891), and the limit or preference is tailored to serve that segment of the population.

If the Project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the Project may have a limitation or preference for persons with disabilities who need services offered at a project only if:

- The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
- Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and
- Such services cannot be provided in a non-segregated setting. The families must not be required to accept the services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

D. TDD/TTY or Relay Service Required

Contractor agrees to list a TDD/TTY or the Washington Relay telephone number on all of the written policies and documents that they make available to participants, beneficiaries, or employees, including their letterhead, materials used to market programs, and any other public document that lists a telephone number.

5. DOMESTIC PREFERENCES FOR PROCUREMENTS

Domestic Preference for Procurements

As appropriate, and to the extent consistent with the law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

6. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause –

B. *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (c) of this clause applies, the Contractor and its lower-tiered Contractor may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - d. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. *Exceptions.*

- i. This clause does not prohibit Contractors from providing –
 - a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into user data or packets that such equipment transmits or otherwise handles.

- ii. By necessary implication and regulation, the prohibitions also do not apply to:
 - a. Covered telecommunications equipment or services that:
 - i. Are *not used* as a substantial or essential component of any system; and
 - ii. Are *not used* critical technology of any system.
 - b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. *Reporting Requirement.*

- i. In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a lower-tiered Contractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the recipient or Contractor, unless elsewhere in this contract are established procedures for reporting the information.
- ii. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - a. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - b. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

7. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity.

The Contractor shall retain such records for a period of five (5) years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

EXHIBIT "E"
(ELIGIBLE USE MEMORANDUM)

FROM: ERIC CHAMBERS, SPECIAL PROJECTS MANAGER
DATE: September 27, 2024
RE: AMERICAN RESCUE PLAN ACT - DETERMINATION OF ELIGIBLE USE FOR CHILD CARE ASSISTANCE

Section 1: Eligible Use

The Department of the Treasury Final Rule implementing the Coronavirus State Fiscal Recovery Fund and the Local Fiscal Recovery Fund (SLFRF) established under the American Rescue Plan allows funds to be used for the purposes of childcare and early learning services. Childcare and early learning services are responsive to the pandemic's impacts on households and communities. Per Treasury, "Under the final rule, childcare and early learning services are available to impacted households or classes of households, not just those disproportionately impacted. These eligible uses can include new or expanded services, increasing access to services, efforts to bolster, support, or preserve existing providers and services, and similar activities. Further, Treasury is clarifying that improvements to or new construction of childcare, daycare, and early learning facilities are eligible capital expenditures" (p. 4364, Federal Register / Vol 87, No. 18).

The Legal and Finance Departments concur that this proposal is an eligible use of County ARPA grant funds. The proposed use of funds is summarized in Section 3 of this memo.

Federal Regulations

Federal Register Vol 87, No 18, January 27, 2022 Rules & Regulations

<https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf>

The final rule offers guidance on p. 4363-4364 identifying childcare and early learning as an eligible use of funds to aid households or populations who faced negative economic impacts due to COVID-19.

The final rule states:

"As daycares and schools closed in-person activities during the pandemic, many working families were left without childcare during the day. Although daycare centers and schools have since reopened in many communities, there remains a persistent childcare shortage as childcare employment levels have not fully rebounded since the sharp decline in childcare employment at the beginning of the pandemic. As a result, working parents in communities across the country, and more specifically women, may face challenges entering or reentering the labor force.

Low-income households are also more likely to lose access to quality childcare. The widespread closure of childcare centers combined with a lack of access to paid family leave means parents in low-income households are more likely to experience a reduction of income or leave their jobs due to a lack of childcare options.

Additionally, childcare providers serving primarily low-income families were less likely to remain open during the pandemic because of tighter profit margins and general community financial insecurity, compared to childcare providers serving primarily high-income families.

In addition to disruptions to childcare, early learning services were also significantly impacted by the pandemic, and the disruption of these services had widespread ramifications for learning loss, parental support, and equity. Early learning centers have seen declined enrollment across the board, though there was a larger dip in enrollment for low-income households. This lower enrollment coincides with a diminishing workforce, as similarly to childcare, early childhood educators have been leaving the profession due to long hours, low pay, and health and safety concerns. As a result, children's school readiness has suffered, leading to potential long-term impacts on life outcomes. The impact also extended to parents. Parents, especially mothers, may face challenges in the workforce if early learning services are unavailable.

Treasury agrees with commenters' analysis that challenges accessing or affording childcare have been widespread during the pandemic, affecting many jurisdictions and populations across the country. Disruptions to early care and learning services similarly have had broad impact and likely result in negative impacts for young children and their parents.

Under the final rule, childcare and early learning services – including capital expenditures - are a clear eligible use of SLFRF funds. Discussed below is further information related to the eligibility of the population served through childcare and early learning programs funded by SLFRF.

Section 2: Summary of Impacted Community

The final rule allows the use of SLFRF funds for childcare and early learning services (including capital expenditures) targeted toward families and communities impacted by COVID-19.

Whatcom County seeks here to outline ways in which beneficiaries of childcare and early learning services were impacted by the pandemic.

Low-Income Families

Page 4359 of the final rule states “Recipients may presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low or moderate income experienced negative economic impacts resulting from the pandemic, and recipients may provide services to them that respond to these impacts, including these enumerated eligible uses.”

Page 4447 defines moderate-income households (the upper limit for receiving assistance) as those with incomes at or below 300 percent of the Federal Poverty Guidelines for the size of its household based on poverty guidelines published most recently by the Department of Health and Human Services or those with incomes at or below 65 percent of the Area Median Income for its county and size of households based on data published most recently by the U.S. Department of Housing and Urban Development.

The project funded under this contract serves/will serve a number of low or moderate income-households, as defined by incomes below 300 percent of the federal poverty level or participation in childcare subsidies through the Child Care & Development Fund Program, Head Start, Early Head Start, and/or SNAP. The project sponsor's application states that they will provide seventy (70) new slots with at least 25% reserved for children at or below 80 AMI or eligible for Working Connection subsidies. The project-sponsor will keep data on file regarding the incomes of clients served. Further, the project will require recording of a covenant ensures a continued public good by requiring that 25% of all child care slots are reserved for children of low-moderate income.

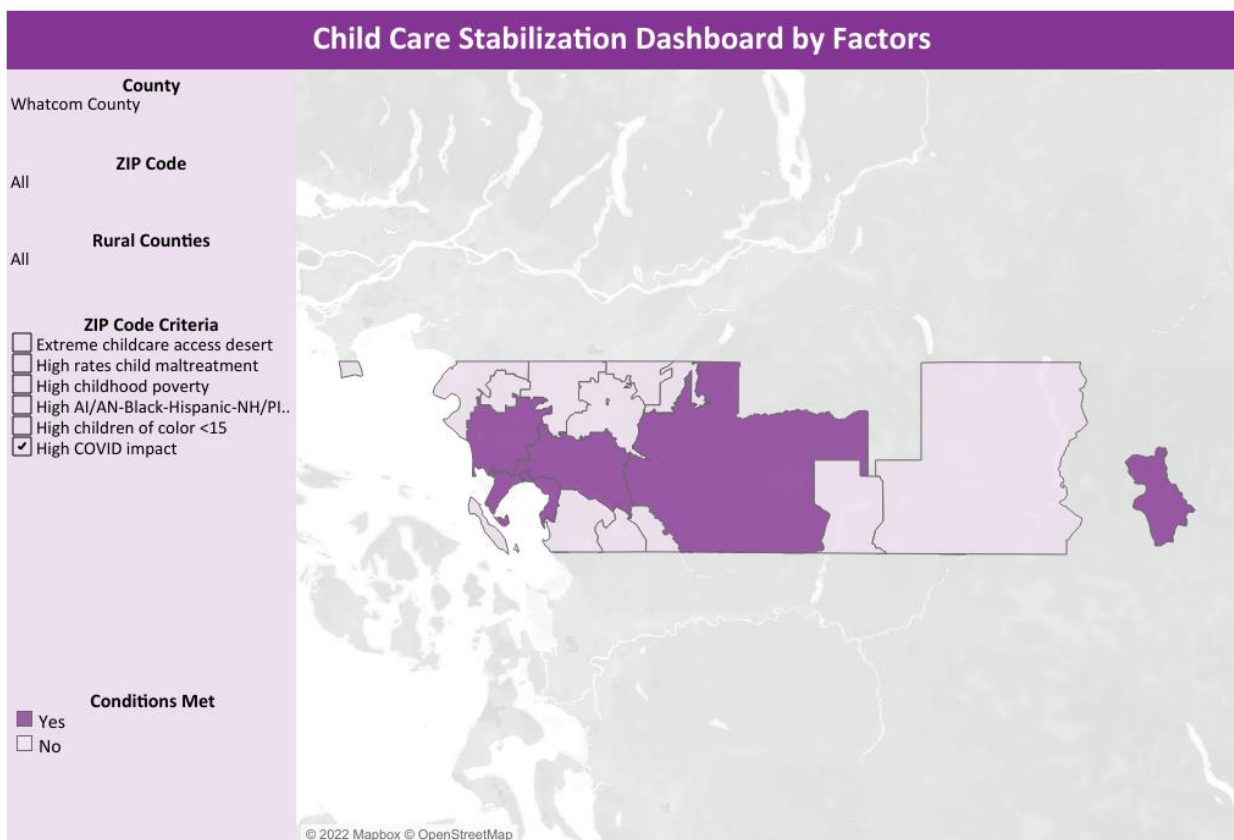
Whatcom County recognizes that in order to promote sustainable childcare business models and economic integration, it's imperative that childcare providers serve households with a diverse range of incomes. As such, childcare providers funded through SLFRF are unlikely to have more than 20-40% of enrolled families be low or moderate-income. Whatcom County recognizes the dual policy goals of healthy childcare business models and community integration as priorities for investments of SLFRF.

Impacted Communities

High-COVID Impact Areas for Childcare

Additionally, as described on p. 4350 of the final rule, Treasury allows recipients to “identify classes of households, communities, small businesses, nonprofits, or populations that have experienced a disproportionate impact based on academic research or government research publications, through analysis of their own data, or through analysis of other existing data sources.”

The Washington State Department of Children, Youth and Families (DCYF) has compiled childcare access data to create a “[Child Care Stabilization Dashboard](#)”, which among other things, shows communities across the state with the highest COVID-19 impact as it relates to childcare. According to the dashboard, “High impact COVID-19 areas are defined as zip codes where $\geq 40\%$ of licensed providers reported any temporary COVID closure in the 14 months between March 2020-May 2021, AND the zip codes with the top quartile of COVID closure days.” DCYF has classified the following Whatcom County zip codes as high-COVID impact areas for childcare: 98862, 98267, 98248, 98244, 98226, and 98225.



The program funded through this contract is located at 1904 Main Street, Suite 10, Ferndale, WA 98248. This community is defined as a high-COVID impact area by DCFY and, thus, families seeking childcare in this zip code are considered an impacted community.

Section 3: Summary of Proposed Uses

According to data from the Opportunity Council, a local childcare access point in Whatcom County, temporary and permanent closures of childcare centers reduced care options for families during the pandemic. During the pandemic, 80% of Whatcom County childcare programs had to close at least temporarily. These losses are especially significant as Whatcom County was already a “child care desert” prior to COVID-19.

This proposed use of funds will enable Whatcom County to support 58 additional [Early Childhood Education and Assistance Program](#) (ECEAP) slots, bringing total overall capacity to 151, of which 25% will be dedicated to serving families of low/moderate income. This is responsive to the impact families in the community experienced during the pandemic; in particular, a provider states:

“The emotional and financial impacts of the pandemic on the children and families in our community are unprecedented and immeasurable...Though we have been providing childcare for 30 years in Whatcom County, the pandemic has created a challenging environment and added significant expenses to providing safe, affordable, and accessible care.” Further, *“...we had a significantly reduced number”*

Through the proposed contract with Ferndale School District, Whatcom County is responding proportionately to the economic impacts of COVID-19 on Whatcom County households and communities.

EXHIBIT "F"
(ARPA SUBAWARD INFORMATION)

	Item Description	Contract Information
1	Subrecipient Name (Exactly as listed on www.SAM.gov)	Ferndale School District
2	Subrecipient UEI Number: www.SAM.gov	G223JDBSLKE7
3	Federal Award Identification Number (FAIN):	SLFRP1195
4	Federal Award Date (from Federal contract)	May 13, 2021
5	Start and End Date of the contract:	07/24/2024 -
6	Amount of Federal Funds Obligated by this action:	\$44,528,542
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (current and past obligations):	\$700,000
8	Total Amount of the Federal Award <u>committed</u> to the subrecipient through Whatcom County:	\$700,000
9	Project description from Federal Award:	Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.
10	Name of the Federal awarding agency:	United States Department of the Treasury
11	Name of the pass-through entity/entities:	Whatcom County
12	Contact information for awarding official- (Name of County project coordinator)	Eric Chambers – EKChambe@co.whatcom.wa.us
13	Contact information for awarding official- General Contact email or phone number:	Whatcom County Health and Community Services – 360-778-6000
14	ALN Number	21.027
15	ALN Name Program Name	Coronavirus State and Local Fiscal Recovery Funds (CSLFRF), Coronavirus State Fiscal Recovery Fund (CDFRF) and Coronavirus Local Fiscal Recovery Fund (CLFRF)
16	Is the award Research and Development?	No
17	Indirect Cost Rate per the Federal Award	n/a
18	Federal requirements imposed on the subrecipient by Whatcom County:	See contract terms above
19	Additional requirements imposed by Whatcom County to meet its own responsibilities to the awarding agency:	See contract terms above
20	Indirect Rate: Subrecipient approved rate or de minimis	n/a
21	Access to subrecipient's accounting records and financial statements as needed.	Yes
22	Closeout Requirements	Yes