

**WHATCOM COUNTY CONTRACT  
INFORMATION SHEET**

Whatcom County Contract No.  
**202101002**

Originating Department:	Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	Division of Emergency Management
Contract or Grant Administrator:	John Gargett
Contractor's / Agency Name:	Washington State Military Department

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes  No   
 Yes  No  If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: \_\_\_\_\_

Does contract require Council Approval? Yes  No  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? Yes  No  If yes, grantor agency contract number(s): E21-171 CFDA#: N/A

Is this contract grant funded? Yes  No  If yes, Whatcom County grant contract number(s): \_\_\_\_\_

Is this contract the result of a RFP or Bid process? Yes  No  If yes, RFP and Bid number(s): \_\_\_\_\_ Contract \_\_\_\_\_  
 Cost Center: \_\_\_\_\_

Is this agreement excluded from E-Verify? No  Yes  If no, include Attachment D Contractor Declaration form.  
 If YES, indicate exclusion(s) below:



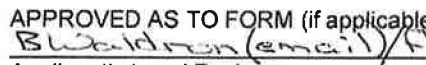
- Professional services agreement for certified/licensed professional.  Goods and services provided due to an emergency
- Contract work is for less than \$100,000.  Contract for Commercial off the shelf items (COTS).
- Contract work is for less than 120 days.  Work related subcontract less than \$25,000.
- Interlocal Agreement (between Governments).  Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>0</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards <b>exceeding \$40,000</b> , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, <b>except when:</b> <ol style="list-style-type: none"> <li>Exercising an option contained in a contract previously approved by the council.</li> <li>Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.</li> <li>Bid or award is for supplies.</li> <li>Equipment is included in Exhibit "B" of the Budget Ordinance.</li> <li>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.</li> </ol>
Summary of Scope: To accept ownership of two All Hazard Alert Broadcast (AHAB) Sirens purchased and installed by Washington State Military Department.	

Term of Contract: Ten Years      Expiration Date: 07/31/2030

Contract Routing:	1. Prepared by: F Burkhart	Date: 12/18/2020
	2. Attorney signoff: <u>B Waldron (email)</u>	Date: <u>12/18/2020</u>
	3. AS Finance reviewed: <u>M Caldwell (email)</u>	Date: <u>12/18/2020</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: <u>1-5-2021</u>
	7. Council approved (if necessary): _____	Date: <u>1.12.2021</u>
	8. Executive signed: _____	Date: <u>1-13-2021</u>
	9. Original to Council: _____	Date: <u>1-22-2021</u>

Washington State Military Department  
**ALL HAZARDS ALERT BROADCAST (AHAB) SIREN AGREEMENT FACE SHEET**

1. Recipient Name and Address: <b>Whatcom County</b> <b>311 Grand Ave</b> <b>Bellingham, WA 98225</b>	2. UBI # (state revenue): <b>371-010-246</b>	3. Agreement Number: <b>E21-171</b>
4. Recipient Contact, phone/email: <b>John Gargett, 360-778-7160</b> <b><a href="mailto:jgargett@co.whatcom.wa.us">jgargett@co.whatcom.wa.us</a></b>	5. Agreement Start Date: <b>August 1, 2020</b>	6. Agreement End Date: <b>July 31, 2030</b>
7. Department Contact, phone/email: <b>Maximilian Dixon, (253) 512-7017</b> <b><a href="mailto:Maximilian.Dixon@mil.wa.gov">Maximilian.Dixon@mil.wa.gov</a></b>	8. Data Universal Numbering System (DUNS): <b>060044641</b>	
9. Service Districts: (BY LEGISLATIVE DISTRICT): <b>42</b> (BY CONGRESSIONAL DISTRICT): <b>1,2</b>	10. EIN <b>91-6001383</b>	
11. Agreement Classification <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Research/Development <input type="checkbox"/> A/E <input type="checkbox"/> Other	12. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency	
13. PURPOSE & DESCRIPTION:  The Washington Military Department (Department) has authority to enter into this Agreement pursuant to RCW 38.52.010, RCW 38.52.020, and RCW 38.52.030, which statutes direct and authorize the Department to prepare for, mitigate, and respond to emergencies and disasters.  The Department through the Earthquake/Tsunami Program provides public awareness and education regarding preparing for, and surviving, a natural or man-made disaster event. The Department would, without this agreement pay for not only the cost to purchase and install All Hazards Alert Broadcast (AHAB) Warning Sirens that provide both tone and voice alert capability for all-hazards, but would be responsible for, leasing space, installation, regular maintenance requirements, operation, and testing of the sirens. With this agreement, the Department agrees to install AHAB sirens #99 and #100 on Recipient's land at a total cost of \$113,000 (\$56,500 per siren) with state funding, with location(s) to be identified within the Statement of Work (Attachment C). Once the AHAB siren(s) are installed, they become property of Recipient. In consideration of receipt of the siren(s) for protection of people in the County, Recipient agrees to be responsible for all operation and to maintain the siren(s) in full compliance with Department's maintenance requirements according to Department guidance and as set out in the Statement of Work (Attachment C).  IN WITNESS WHEREOF, In consideration of the mutual covenants and promises contained below, the receipt and sufficiency of which is acknowledged by each of the parties, and without payment of money for the privileges granted, the Department and Recipient agree as follows: the Department and Recipient acknowledge and accept the terms of this Agreement, including all referenced Attachments which are hereby incorporated in and made a part hereof, agree that the consideration is sufficient, and have executed this Agreement as of the date below. This Agreement Face Sheet; Special Terms & Conditions (Attachment A); General Terms and Conditions (Attachment B); Statement of Work (Attachment C); AHAB Site Survey Information Template (Attachment D), and all other documents and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.  In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:  1. Applicable Federal and State Statutes and Regulations      4. Special Terms and Conditions 2. General Terms and Conditions    5. Other provisions of the Agreement incorporated by reference 3. Statement of Work		
WHEREAS, the parties hereto have executed this Agreement on the day and year last specified below. FOR THE DEPARTMENT:  <u>1/20/2021</u> Signature _____ Date _____ Regan Anne Hesse, Chief Financial Officer Washington State Military Department  APPROVED AS TO FORM Dawn C. Cortez 10/08/2020 Assistant Attorney General		
FOR THE RECIPIENT:  <u>01/13/2021</u> Signature _____ Date _____ Satpal Singh Sidhu Whatcom County Executive  APPROVED AS TO FORM (if applicable):  <u>12/18/2020</u> Applicant's Legal Review _____ Date _____		

**SPECIAL TERMS AND CONDITIONS****ARTICLE I. KEY PERSONNEL**

The individuals listed below shall be considered key personnel for point of contact under this Agreement. Any substitution of key personnel by either party shall be made by written notification to the current key personnel.

RECIPIENT		MILITARY DEPARTMENT	
Name	<b>John Gargett</b>	Name	<b>Elyssa Tappero</b>
Title	<b>Deputy Director</b>	Title	<b>Tsunami Program Coordinator</b>
E-Mail	<a href="mailto:jgargett@co.whatcom.wa.us">jgargett@co.whatcom.wa.us</a>	E-Mail	<a href="mailto:Elyssa.Tappero@mil.wa.gov">Elyssa.Tappero@mil.wa.gov</a>
Phone	<b>360-778-7160</b>	Phone	<b>253-512-7067</b>
Name		Name	<b>Maximilian Dixon</b>
Title		Title	<b>Hazards and Outreach Supervisor</b>
E-Mail		E-Mail	<a href="mailto:Maximilian.Dixon@mil.wa.gov">Maximilian.Dixon@mil.wa.gov</a>
Phone		Phone	<b>253-512-7017</b>
Name		Name	
Title		Title	
E-Mail		E-Mail	
Phone		Phone	

**ARTICLE II. ADMINISTRATIVE AND/OR FINANCIAL REQUIREMENTS**

The Parties shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this agreement.

**A. STATE AND FEDERAL REQUIREMENTS FOR AGREEMENTS:**

The following requirements apply to all State Agreements administered by the Department.

1. This is not a reimbursement contract. No costs for purchases of equipment/supplies will be reimbursed. The parties agree that the consideration provided in this agreement is sufficient, in that Recipient receives AHAB warning sirens to assist it in protecting people located within the county and the Department is allowed to install the sirens on county property and receives operation and basic maintenance of the sirens in accordance with its requirements.

**B. ENVIRONMENTAL AND NATIONAL HISTORICAL PRESERVATION**

1. Recipients may be required to provide environmental information and gather information from Federal and State regulatory agencies, including the designated State Historic Preservation Office and Indian tribes, as appropriate. The failure to provide such information, when requested, shall be grounds for withdrawing AHAB siren installation. In some cases, recipient may be required to submit additional environmental compliance information sufficient to enable NOAA to make an assessment of any impacts that a project may have on the environment.
2. Regulations implementing the National Environmental Policy Act of 1969 (NEPA), as amended, require NOAA to provide public notice of the availability of project-specific environmental documents, as appropriate. Detailed information on NOAA compliance with NEPA may be found on the National Oceanic and Atmospheric Administration website under "DOC Categorical Exclusions and Administrative Record": <http://www.nepa.noaa.gov/>.

**Washington State Military Department  
GENERAL TERMS AND CONDITIONS**

**1. DEFINITIONS**

As used throughout this Agreement, the terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

- a. **"Agreement"** means this Agreement.
- b. **"Siren(s)"** means the All Hazards Alert Broadcast (AHAB) Warning Siren; a physical, pole-mounted, modular siren system that alerts those within range to danger by emitting a voice, tone, and intense blue light alert.
- c. **"Department"** means the Washington State Military Department, as a state agency, any division, section, office, unit or other entity of the Department, or any of the officers or other officials lawfully representing that Department. The Department is a Recipient of a federal award directly from a federal awarding agency and is the pass-through entity making a subaward to a Recipient under this Agreement.
- d. **"Recipient"** means the entity identified on the Face Sheet of this Agreement.
- e. **"Monitoring Activities"** means all administrative, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.

**2. AMENDMENTS AND MODIFICATIONS**

The Recipient or the Department may request, in writing, an amendment or modification of this Agreement. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the Department and the Recipient. No other understandings or agreements, written or oral, shall be binding on the parties.

**3. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.**

The Recipient must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

**4. ASSURANCES**

The Department and the Recipient agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

**5. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY**

As federal funds are a basis for this Agreement, the Recipient certifies that the Recipient is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The Recipient shall complete, sign, and return a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form located at <http://mil.wa.gov/emergency-management-division/agreements/requiredagreementforms>. Any such form completed by the Recipient for this Agreement shall be incorporated into this Agreement by reference.

**6. CONFLICT OF INTEREST**

No officer or employee of the Department; no member, officer, or employee of the Recipient or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of the Recipient who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

**7. COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES**

The Recipient shall comply with, and the Department is not responsible for determining, compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to:

nondiscrimination laws and/or policies, Energy Policy and Conservation Act (PL 94-163, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Civil Rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

The recipient must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. The Department of Commerce guidance is still pending, but the Department of Homeland Security published recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011) that can be of use here as well. The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services, selecting language services, and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>. Recipient must also comply with the provisions in the 2019 amendments to RCW 38.52 that apply to providing language services.

In the event of noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy by the Recipient, its contractors or Recipients, the Department may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion. The Recipient is responsible for all costs or liability arising from its failure, and that of its contractors and Recipients, to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

#### 8. DISCLOSURE

The use or disclosure by any party of any information concerning the Department or the Recipient for any purpose not directly connected with the administration of the Department's or the Recipient's responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the respective agency or as required to comply with RCW 42.56, the Public Records Act, other law or court order.

#### 9. DISPUTES

Except as otherwise provided in this Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The panel shall consist of a representative appointed by the Department, a representative appointed by the Recipient and a third party mutually agreed upon by both parties. The panel shall, by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs and share equally the cost of the third panel member.

#### 10. LEGAL RELATIONS

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, each party, its successors or assigns, will protect, save and hold harmless the other party, the State of Washington, and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of that party, its sub-contractors, Recipients, assigns, agents, contractors, consultants,

licensees, invitees, employees or any person for whom it is responsible, whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, each party further agrees to defend the other and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with that party's acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of one of the parties; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the Department, and (2) the Recipient, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Recipient, or Recipient's agents or employees.

**11. LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE**

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the Department's Authorized Signature representative and the Authorized Signature representative of the Recipient or Alternate for the Recipient, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties' Authorized Signature representatives.

Further, only the Authorized Signature representative or Alternate for the Recipient shall have signature authority to sign time extension requests, amendment and modification requests, requests for changes to projects or work plans, and other requests, certifications and documents authorized by or required under this Agreement.

**12. NONASSIGNABILITY**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Recipient.

**13. NONDISCRIMINATION**

The Recipient shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement.

**14. NOTICES**

The Recipient shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and regulations and shall maintain a record of this compliance.

**15. OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/ HEALTH ACT (OSHA/WISHA)**

The Recipient represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the Recipient's performance under this Agreement. To the extent allowed by law, the Recipient further agrees to indemnify and hold harmless the Department and its employees and agents from all liability, damages and costs of any nature, including, but not limited to, costs of suits and attorneys' fees assessed against the Department, as a result of the failure of the Recipient to so comply.

**16. OWNERSHIP OF PROJECT/CAPITAL FACILITIES**

The Department makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement and does not and will not acquire any ownership interest or title to such property of the Recipient. The Recipient shall assume all liabilities and responsibilities arising from the ownership and operation of the project and agrees to indemnify and hold the Department, the state of Washington harmless from any and all causes of action arising from the Recipient's ownership and operation of the project.

**17. PUBLICITY**

The Parties agrees to submit to each other, prior to issuance, all advertising and publicity matters relating to this Agreement wherein the other Party's name is mentioned, or language used from

which the connection of the other Party's name may be inferred or implied. The Parties agree not to publish or use such advertising and publicity matters without the prior written consent of the other Party.

#### 18. RECORDS

- a. The Parties agree to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the that Party's contracts, subawards, agreement administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").
- b. The Parties records related to this Agreement and the projects funded may be inspected and audited by the Department or its designee, by the Office of the State Auditor, NOAA, or by other state or officials authorized by law, for the purposes of determining compliance by the Parties with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.
- c. The records shall be made available by the Parties for such inspection and audit, together with suitable space for such purpose, at any and all times during the Parties' normal working day.
- d. The Parties shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the agreement under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) years must be followed.

#### 19. RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

The Recipient shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the Recipient in connection with the project. The Recipient shall not look to the Department, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including, but not limited to, cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any operation and/or maintenance of a project.

#### 20. SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

#### 21. TAXES, FEES AND LICENSES

Unless otherwise provided in this Agreement, the Recipient shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the Recipient or its staff required by statute or regulation that are applicable to Agreement performance.

#### 22. TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this Agreement, the Recipient may terminate this Agreement by providing written notice of such termination to the Department Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the Department, in its sole discretion and in the best interests of the State of Washington, may terminate this Agreement in whole or in part by providing ten (10) calendar days written notice, beginning on the second day after mailing to the Recipient. Upon notice of termination for convenience, the Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Recipient from incurring additional obligations of funds. In the event of termination, the Recipient shall be liable for all damages as authorized by law. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

#### 23. TERMINATION OR SUSPENSION FOR CAUSE

In the event the Department, in its sole discretion, determines the Recipient has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the

Recipient unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the Department has the right to immediately suspend or terminate this Agreement in whole or in part.

The Department may notify the Recipient in writing of the need to take corrective action and provide a period of time in which to cure. The Department is not required to allow the Recipient an opportunity to cure if it is not feasible as determined solely within the Department's discretion. Any time allowed for cure shall not diminish or eliminate the Recipient's liability for damages or otherwise affect any other remedies available to the Department. If the Department allows the Recipient an opportunity to cure, the Department shall notify the Recipient in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the Department, or if such corrective action is deemed by the Department to be insufficient, the Agreement may be terminated in whole or in part.

The Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Recipient from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the Recipient, if allowed, or pending a decision by the Department to terminate the Agreement in whole or in part.

In the event of termination, the Recipient shall be liable for all damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the Recipient: (1) was not in default or material breach, or (2) failure to perform was outside of the Recipient's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

#### 24. TERMINATION PROCEDURES

In addition to the procedures set forth below, if the Department terminates this Agreement, the Recipient shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the Department may require the Recipient to deliver to the Department any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the Department shall pay to the Recipient as an agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the Department prior to the effective date of Agreement termination, the amount agreed upon by the Recipient and the Department for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the Department, (iii) other work, services and/or equipment or supplies which are accepted by the Department, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the Department shall determine the extent of the liability of the Department. The Department shall have no other obligation to the Recipient for termination. The Department may withhold from any amounts due the Recipient such sum as the Department determines to be necessary to protect the Department against potential loss or liability.

The rights and remedies of the Department provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the Department in writing, the Recipient shall:

- a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- b. Place no further orders or contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- c. Assign to the Department, in the manner, at the times, and to the extent directed by the Department, all of the rights, title, and interest of the RECIPIENT under the orders and



contracts so terminated, in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;

- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and contracts, with the approval or ratification of the Department to the extent the Department may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the Department and deliver in the manner, at the times, and to the extent directed by the Department any property which, if the Agreement had been completed, would have been required to be furnished to the Department;
- f. Complete performance of such part of the work as shall not have been terminated by the Department in compliance with all contractual requirements; and
- g. Take such action as may be necessary, or as the Department may require, for the protection and preservation of the property related to this Agreement which is in the possession of the RECIPIENT and in which the Department has or may acquire an interest.

25. UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)

The Recipient is encouraged to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Agreement. The Recipient may set utilization standards, based upon local conditions or may utilize the state of Washington MWBE goals, as identified in WAC 326-30-041.

26. VENUE

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The Parties, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

27. WAIVERS

No conditions or provisions of this Agreement can be waived unless approved in advance by the Department in writing. The Department's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

**STATEMENT OF WORK****Title****Installation of All Hazards Alert Broadcast (AHAB) Warning Siren(s) within Whatcom County:**

The Recipient agrees to allow the installation of the All Hazards Alert Broadcast (AHAB) Warning Siren in the following locations within Whatcom County:

<b>AHAB Siren Name</b>	<b>AHAB Siren Location (LAT/LONG)</b>	<b>Point of Contact for Siren Location (Name, Phone Number, Email)</b>
99	48.720249, -122.513427	Wallace Kost, 360.788.5305, <a href="mailto:wkost@co.whatcom.wa.us">wkost@co.whatcom.wa.us</a>
100	48.989085, -122.771537	Wallace Kost, 360.788.5305, <a href="mailto:wkost@co.whatcom.wa.us">wkost@co.whatcom.wa.us</a>

The Department will provide all maintenance and parts to the controller box and satellite communications systems. The Department agrees to stock and maintain the standard repair components as suggested by the manufacturer to expedite repairs.

**All Hazards Alert Broadcast (AHAB) Warning Siren(s) requirements:**

Upon satisfactory installation, the siren will become the property of the Recipient. AC power hook-up will be provided by the Recipient to the siren but will not be hooked-up until the system has been installed on the pole. Continued monthly AC power usage charges will be required and provided through Recipient unless power is able to tie into existing electrical service. Battery replacement is the responsibility of the Recipient. Upon satisfactory installation, the Recipient will assume responsibility for: the physical security of the siren, for the coordination of the restoration of electrical power to the siren, for the routine testing of the siren via local radio network or internet, for the prompt reporting of any routine testing problems to the Department, and for access to the siren with a bucket truck and weed control within a 15-foot radius of the siren. If the siren will be installed in a locked area, the Recipient will provide 24-hour access and/or issue a key to the Washington Military Department Telecommunications Engineer to allow access to the area for times employees are unavailable to open the compound for needed work.

The Department will send out a daily status report to Recipient, routinely test the siren with the satellite control system, automatically monitor alarms, silent test the siren, immediately report any intrusions to the Recipients Primary Law Enforcement agency, and troubleshoot and repair any major siren malfunctions as rapidly as possible (except for battery failures). The Department will schedule trained and certified siren technicians to troubleshoot and make repairs. The Recipient will be kept informed of all actions taken during repair. The Department agrees to maintain and fund the satellite access contracts with appropriate satellite providers.

Upon notification by the Department, the Recipient has 48 hours to resolve any issue(s) with the batteries, AC power, physical security, and/or access to the Siren(s). Failure by the Recipient to fulfill this requirement will result in a management letter that may adversely impact future decision-making regarding the purchasing and installation of AHAB Siren(s) within the Recipient's jurisdiction.

**Active All Hazards Alert Broadcast (AHAB) Warning Siren(s) within Whatcom County:**

The Recipient currently owns All Hazards Alert Broadcast (AHAB) Warning Siren(s) in the following locations within Whatcom County:

AHAB Siren Name	AHAB Siren Location (LAT/LONG)	Point of Contact for Siren Location (Name, Phone Number, Email)	Year of Siren Installation
1	48.79884, -122.70942	Jim Petrie, 360.384.1480, <a href="mailto:Wcfd17@comcast.net">Wcfd17@comcast.net</a>	2007
63	48.92973, -122.74546	Wallace Kost, 360.788.5305, <a href="mailto:wkost@co.whatcom.wa.us">wkost@co.whatcom.wa.us</a>	2017
65	48.99449, -122.76028	Wallace Kost, 360.788.5305, <a href="mailto:wkost@co.whatcom.wa.us">wkost@co.whatcom.wa.us</a>	2017
69	48.7559, -122.50193	Wallace Kost, 360.788.5305, <a href="mailto:wkost@co.whatcom.wa.us">wkost@co.whatcom.wa.us</a>	2017
72	48.93642, -122.78553	Wallace Kost, 360.788.5305, <a href="mailto:wkost@co.whatcom.wa.us">wkost@co.whatcom.wa.us</a>	2018

**Recipient participation regarding All Hazards Alert Broadcast (AHAB) Warning Siren(s)' activation, testing, and drills:**

The Recipient agrees that the triple controlled siren will be activated by either the Department or the Recipient. The Recipient agrees to use the siren for only routine testing and real emergency incidents. The Recipient activates the siren with their local radio system, or internet. The Recipient agrees to participate in all statewide siren tests/drills whether it be monthly tests or the annual ShakeOut drill. The Recipient authorizes the Department to activate the siren and transmit a Tsunami Warning message after receiving a Tsunami Warning alert from the National Weather Service that is expected to affect the Washington State coast.

The tsunami warning audio message in English is as follows: "The National Weather Service has issued a tsunami warning. A tsunami can create strong waves, dangerous flooding and powerful currents. If you are in a coastal area you are at risk and must move to higher ground or inland now. Do not return until directed to do so. Tune to local media for additional information after you move to higher ground or inland."

Failure by the Recipient to fulfill this requirement will result in a management letter that may adversely impact future decision-making regarding the purchasing and installation of AHAB Siren(s) within the Recipient's jurisdiction.

**Requirements of Recipient prior to installation:**

The Recipient is required to complete the AHAB Site Survey Information Template (Attachment 1) prior to installation and obtain all necessary permits before installation.

**AHAB SITE SURVEY INFORMATION TEMPLATE**  
**Receiving Jurisdiction Responsibilities**

**DETAILED INSTRUCTIONS:****Choosing an Installation Location:**

1. AC power is within an acceptable distance for installation.
2. Satellite transceiver antenna requires a clear view of sky to south-southeast (Approximately 198 degrees true and 30 degrees above horizon).
3. No overhead wires with a voltage rating of more than 14.4K volt AC or other obstructions within 20' of pole location.
4. No underground utilities within 5' of intended pole location.
5. Access for heavy equipment to install siren without blocking roads and no overhead obstructions.
6. Site must be in road right-of-way or municipal owned land. Other locations will require that the local jurisdiction negotiate and complete a legal easement agreement with the property owner.
7. All permitting necessary for installation must be obtained before the installation date.

**Documenting Installation Location:**

1. Provide street number and name of nearest building.
2. Indicate siren location in relationship to that address.
3. Provide Latitude and Longitude readings.
4. Provide nearest cross streets both directions from install site. Distance from site to cross street is extremely helpful.

**Marking Installation Location (Installer responsibility after onsite survey is completed by Department Telecommunications Engineer):**

1. Paint ground with White Paint
2. Drive a wood or metal stake into ground leaving ~ 2' exposed and marked with the words "SIREN".

**Requesting Underground Utility Check (Installer responsibility after onsite survey is completed):**

1. Call the state-wide underground utility check number with the information collected above. 1-800-424-5555 or [www.callbeforeyoudig.org](http://www.callbeforeyoudig.org) to schedule the underground utility check.
2. Mark all utilities within a 25' radius of the staked/marked location.
3. Pole will be installed 8-10' deep and ground wires extending out approximately 25' from the pole in one direction attached to 2 each, 10' ground rods.
4. Obtain a "ticket number"
5. Check the location after three (3) working days and see if any markings indicate utilities are under the intended install site.

**What happens next:**

1. The Department will notify you the week before they are scheduled to install. Please realize that schedules often change due to weather and other unforeseen construction issues. We will do our best to keep you informed.
2. If required, the pole installer will update the underground utility check prior to pole installation using the ticket number.

**WHATCOM COUNTY  
SHERIFF'S OFFICE**

**BILL ELFO  
SHERIFF**



PUBLIC SAFETY BUILDING  
311 Grand Avenue  
Bellingham, WA 98225-4038  
(360) 778-6600

To: Satpal Singh Sidhu  
Whatcom County Executive

From: Sheriff Bill Elfo, Director of Emergency Management  
John Gargett, Deputy Director of Emergency Management

*Bill Elfo*  
*[Signature]*

Re: All Hazards Alert Broadcast (AHAB) Siren Agreement # E21-171  
for the Port of Bellingham (Fairhaven) and Semiahmoo

Date: December 18, 2020

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Enclosed is the All Hazards Alert Broadcast (AHAB) Siren Agreement #U21-171 between Whatcom County and the Washington State Military Department for your review and signature.

Washington State Military Department Emergency Management Division (WA-EMD), through its Earthquake/Tsunami Program, provides public awareness and education in regards to preparing for, and surviving, a natural or man-made disaster event. WA-EMD, as funds become available and through coordination with local agencies, purchases and installs AHAB Warning Sirens that provide both tone and voice alerts for hazardous situations in at-risk communities.

WA-EMD received funding from the State of Washington to purchase and install two AHABs in Whatcom County, one in Fairhaven (#99) and one at Semiahmoo (#100). This agreement is written for \$0, since WA-EMD will purchase and install the unit. However, WA-EMD will then transfer ownership of the AHABs to Whatcom County and the cost of each AHAB (\$56,500) will be recorded as a non-cash transaction.

U21-171 will also bring the five other AHABs that Whatcom County owns under this one agreement which details the respective agency responsibilities for ongoing maintenance and operations. As noted on page 10, these AHAB locations are: #1 Sandy Point, #63 Birch Bay, #65 Blaine, #69 Port of Bellingham, and #72 Birch Bay Village.

The performance period of this agreement runs from August 1, 2020 through July 31, 2030.

Please contact John Gargett at 360-778-7160 if you have additional questions.