

**WHATCOM COUNTY CONTRACT  
INFORMATION SHEET**

Whatcom County Contract No.  
**202305006**

|   |  |
|---|--|
| Originating Department:   | Whatcom County Auditor   |
| Division/Program: <i>(i.e. Dept. Division and Program)</i>  | Election Division  |
| Contract or Grant Administrator:  | Stacy Henthorn   |
| Contractor's / Agency Name:   | Lynden Tribune & Print Co.   |
| Is this a New Contract?    If not, is this an Amendment or Renewal to an Existing Contract?    Yes <input checked="" type="radio"/> No <input type="radio"/><br>Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a))    Original Contract #: _____   |  |
| Does contract require Council Approval?    Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____<br>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?<br>Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____    CFDA#: _____  |  |
| Is this contract grant funded?<br>Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____  |  |
| Is this contract the result of a RFP or Bid process?    Contract<br>Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): <u>23-35</u> Cost Center: <u>10916.6330 &amp; 10917.6330</u>   |  |
| Is this agreement excluded from E-Verify?    No <input checked="" type="radio"/> Yes <input type="radio"/> If no, include Attachment D Contractor Declaration form.   |  |
| If YES, indicate exclusion(s) below:<br><input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency<br><input checked="" type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).<br><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.<br><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):<br>\$ <u>not to exceed 60,000</u><br>This Amendment Amount:<br>\$ _____<br>Total Amended Amount:<br>\$ <u>not to exceed 60,000</u>  | 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><br>1. Exercising an option contained in a contract previously approved by the council.<br>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.<br>3. Bid or award is for supplies.<br>4. Equipment is included in Exhibit "B" of the Budget Ordinance.<br>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. |
| Summary of Scope: _____   |  |
| The Election Division is statutorily responsible to print & distribute a local voters' pamphlet before any primary or general election, or any special election per RCW 29A.32.210. Every household in the County will be mailed a local voters' pamphlet in the primary and general election.  |  |
| Term of Contract: 12 months   | Expiration Date: May 14, 2024  |

|                   |   |                       |
|-------------------|---|-----------------------|
| Contract Routing: | 1. Prepared by: <u>Stacy Henthorn</u>                       | Date: <u>5/1/2023</u> |
|                   | 2. Attorney signoff: <u>/s/ Royce Buckingham</u>            | Date: <u>5/4/2023</u> |
|                   | 3. AS Finance reviewed: <u>Andrew Tan by email</u>          | Date: <u>5/4/2023</u> |
|                   | 4. IT reviewed (if IT related): _____                       | Date: _____           |
|                   | 5. Contractor signed: _____                                 | Date: _____           |
|                   | 6. Submitted to Exec.: <input checked="" type="checkbox"/>  | Date: <u>5/11/23</u>  |
|                   | 7. Council approved (if necessary): <u>AB2023-331</u>       | Date: <u>5/9/23</u>   |
|                   | 8. Executive signed: <input checked="" type="checkbox"/>    | Date: <u>5/11/23</u>  |
|                   | 9. Original to Council: <input checked="" type="checkbox"/> | Date: <u>5/11/23</u>  |

**Whatcom County  
Auditor's Office**  
Whatcom County Courthouse  
311 Grand Avenue, Suite 103  
Bellingham, WA 98225-4038



**Diana Bradrick**  
County Auditor  
**Stacy Henthorn**  
Chief Deputy Auditor

## MEMORANDUM

Date: May 3, 2023  
To: Satpal Sidhu, County Executive  
From: Diana Bradrick  
RE: Contract with Lynden Tribune & Print Co. for local voters' pamphlet services

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Enclosed is a contract for local voters' pamphlet services between Whatcom County and Lynden Tribune & Print Co.

### ▪ **Background and Purpose**

The Election Division is statutorily responsible to print and distribute a local voters' pamphlet before any primary or general election, or any special election per RCW 29A.32.210. Every household in the County will be mailed a local voters' pamphlet in the primary and general election.

### ▪ **Funding Amount and Source**

The contract amount is not to exceed \$60,000 and the funding source is from the approved 2023 budget – Election fund 10916 & 10917 - account 6330.

There are no additional budgetary costs to the county.

Please contact Diana Bradrick [Dbradric@co.whatcom.wa.us](mailto:Dbradric@co.whatcom.wa.us), if you have any questions or concerns regarding this contract.

Encl.

Whatcom County Contract No.  
202305006

**CONTRACT FOR SERVICES**  
**Between Whatcom County and Lynden Tribune**

Lynden Tribune & Print Co., hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3 to 10,
- Exhibit A (Scope of Work), pp. 11 to 12,
- Exhibit B (Compensation), pp. 13 to 14.

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

The term of this Agreement shall commence on the 15 day of May, 2023, with the option of up to two additional one-year extensions and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 14 day of May, 2024. Unless formal notice of termination by either party is initiated, the contract will continue in full force and effect for two consecutive 1-year periods.

The general purpose or objective of this Agreement is for the: design, production, and distribution of primary and general election voters' pamphlets, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$ 60,000. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this 11 day of May, 2023.

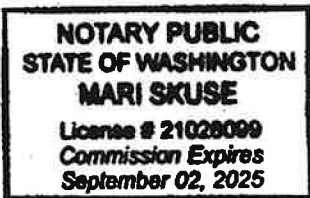
**CONTRACTOR:**

Lynden Tribune & Print Co.

Len VanderStelt  
Len VanderStelt, General Manager

STATE OF WASHINGTON )  
COUNTY OF Whatcom ) ss.

On this 11 day of May, 2023, before me personally appeared Len VanderStelt to me known to be the General Manager (title) of Lynden Tribune and Print (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Mari Skuse  
NOTARY PUBLIC in and for the State of Washington, residing at Woodsack. My commission expires 09/02/2025.



## GENERAL CONDITIONS

### **Series 00-09: Provisions Related to Scope and Nature of Services**

#### **0.1 Scope of Services:**

The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

### **Series 10-19: Provisions Related to Term and Termination**

#### **10.1 Term:**

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

#### **10.2 Extension:**

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

#### **11.1 Termination for Default:**

If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

#### **11.2 Termination for Reduction in Funding:**

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, 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, whichever occurs first.

#### **11.3 Termination for Public Convenience:**

The County may terminate the 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.

## **Series 20-29: Provisions Related to Consideration and Payments**

### **20.1 Accounting and Payment for Contractor Services:**

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

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

### **21.1 Taxes:**

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

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

### **22.1 Withholding Payment:**

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

### **23.1 Labor Standards:**

The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

**Series 30-39: Provisions Related to Administration of Agreement**

30.1 Independent Contractor:

In providing services under this Contract, the Contractor is an independent contractor, and neither it nor its officers, agents, or employees are employees of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes, by, or on behalf of the Contractor, its employees, and/or others by reason of this Contract.

The Contractor shall protect, indemnify, defend, and save harmless the County, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the Contractor's failure to pay any such compensation, wages, benefits, or taxes, and/or (2) the supplying to the Contractor of work, services, materials, or supplies by Contractor employees or other suppliers in connection with or support of the performance of this Contract.

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, public records, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or

proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

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

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance – N/A

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

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Contractor hereby expressly waives any immunity afforded by such acts.



It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

The Contractor agrees all Contractor's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement and are reflected in the Contractor's compensation.

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor's own employees, arising from this contract.

**35.1 Non-Discrimination in Employment: *(Must be included in every contract as per Ord. 2021-016)***

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

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

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

**35.2 Non-Discrimination in Client Services: *(Must be included in every contract as per Ord. 2021-016)***

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

**36.1 Waiver of Noncompetition:**

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

**36.2 Conflict of Interest:**

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

37.1 Administration of Contract:

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

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

To: Whatcom County Auditor  
311 Grand Ave., Suite 103, Bellingham, WA 98225  
Attention: Stacy Henthorn, Chief Deputy Auditor  
Telephone: (360)778-5130  
Email: Shenthor@co.whatcom.wa.us

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

To: Whatcom County Auditor  
311 Grand Ave., Suite 103, Bellingham, WA 98225  
Attention: Stacy Henthorn, Chief Deputy Auditor  
Telephone: (360)778-5130  
Email: Shenthor@co.whatcom.wa.us

To: Lynden Tribune  
PO Box 153, Lynden, WA 98264  
Attention: Len VanderStelt  
Telephone: (360)354-4444  
Email: len@lyndentribune.com

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

If applicable, the Contractor further certifies, by executing this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor

and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

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

**Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes**

40.1 Modifications:

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

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

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

41.2 Waiver:

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

42.1 Disputes:

a. General:

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

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to

the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

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

d. Arbitration:

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

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

**EXHIBIT "A"**  
(SCOPE OF WORK)

Information and page length will change for each election. The following Categories have been established for bidding purposes as the most common size of pamphlets:

- Category 1 8 pages
- Category 2 16 pages
- Category 3 24 pages
- Category 4 32 pages
- Category 5 40 pages
- Category 6 48 pages
- Category 7 56 pages
- Category 8 64 pages
- Category 9 72 pages

**A. DESIGN**

- Produce template for pamphlet that at a minimum includes: design, typesetting, photo scanning and correction, image placement
- Provide three or more cover designs for consideration
- Receive all submitted statements and photographs from the Auditor's Office
- Scan all photos and insert them into the layout
- Insert all text into layout
- Provide a PDF of all pamphlet pages to Auditor's office for proofing
- Communicate with Printer and Mailer to ensure all procedures are followed and timelines are kept
- Provide a complete file of each edition of the pamphlet
- Proof output for final review
- Provide Blueline for final signoff
- PDF file of final pamphlet provided to County Auditor's Office

**B. PRODUCTION**

- Format: magazine (tabloid may be chosen contingent on election)
- Page count: 8, 16, 24, 32, 40, 48, 56, 64, 72 pages with self-cover
- Size: 8.25" x 10.75"
- Stock: 30# newsprint
- Inks: Full color cover or one color cover with some bleeds/ black only on inside pages. (Primary Election may require color on some pages.)
- Produce a Blueline of each edition for approval
- Provide for press checks on each edition printing
- Print a predetermined amount of pamphlets
- Collaborate with mailing contractor on packaging of pamphlets for mailing
- Package pamphlets for mailing contractor
- Provide pamphlets to the Auditor's Office in bundles of 50 packed in cartons, or shrink wrapped, not exceeding 25 lbs.

**Quantity:**

All residential households in Whatcom County, plus an additional 200 for the Auditor's use. The Auditor reserves the right to increase quantity. In some primary elections, distribution may be to specific precincts only and not countywide.

**Finishing:**

Fold, trim, and either press glue or saddle stitch. Quote price for both options.

**C. DISTRIBUTION**

Voters’ pamphlets will be mailed, one (1) per residential household, to arrive at the household 19 days prior to an election in Whatcom County. The pamphlets will be carrier route sorted for saturation walk sequence bulk mail. The pamphlet shall have the County’s permit number and “Residential Customer” as the address. There will be no labels.

The back of the pamphlet for a single edition must read as follows:

Return Address: Whatcom County Auditor  
311 Grand Avenue, Suite 103  
Bellingham WA 98225

Address to: Residential Postal Customer

Special note must be made on any edition with cross county zip codes (zip codes that cross county lines). Those zip codes must be listed separately under the words “Whatcom County Carrier Routes ONLY”.

Pamphlets must be delivered to all eight (8) main post offices in Whatcom County to ensure DDU entry and minimum postage charge to Whatcom County.

Delivery: Contractor must provide a quote of the number of residential addresses in Whatcom County for mail preparation. An additional 200 (Auditor reserves the right to increase quantity) to be delivered to the Whatcom County Auditor’s Office, Whatcom County Courthouse, no later than 19 days prior to the election.

Prior to the mailing of the voters’ pamphlet, Contractor will contact and work with the Election Supervisor to mutually agree upon a date that an electronic voters’ pamphlet will be available to the Auditor’s Office.

Mail preparation and delivery to post office, with the printer having as little as six (6) and at most fifteen working days to print and prepare for mail, and to deliver to the post offices in Whatcom County.

**ESTIMATED TIMELINES – Primary Election 2023**

|   |      |    |
|---|------|----|
| County to Start Boilerplate/Templates Design        | May  | 12 |
| Boilerplates/Templates Sign-off                     | May  | 15 |
| Ballot Title & Explanatory Statement Sent to Vendor | May  | 25 |
| Start Sending Candidate Statements/Photos to Vendor | May  | 30 |
| Pro/Con Statements Sent to Vendor                   | May  | 30 |
| Rebuttals Sent to Vendor                            | May  | 30 |
| Final Draft Submitted                               | July | 3  |
| Final Sign-off                                      | July | 4  |
| PDF's Created                                       | July | 4  |
| Deliver to Printer                                  | July | 4  |
| Bluelines Sign-off                                  | July | 5  |
| Start Press Checks                                  | July | 5  |
| Pamphlets Delivered to Auditor’s Office             | July | 12 |
| Pamphlets to ARRIVE at Residential Address          | July | 12 |

**General Elections and Even-Year Primary Elections**

The voters’ pamphlet for General Elections and even-year Primary Elections may be published in combination with the State Voters’ Pamphlet. Distribution for odd-year Primary Elections may be to specific precincts only and not countywide.

**EXHIBIT "B"**  
(COMPENSATION)

**Cost Estimates**

The totals established are approximate and for bidding purposes only. Exact quantities to be determined at the time of order. \*Prices below for 8/W, see page 2/or additional color pricing.

**A. PRODUCTION**

**Cost per Hour of Design Services**

\$65/hr

| <b>B. PRINTING</b>  |             |          | <b>2023</b>           | <b>PRICE</b><br>per 1,000 | <b>TOTAL PRICE</b><br>per 100,000 |
|---|-------------|----------|-----------------------|---------------------------|-----------------------------------|
| <b>Press Glue</b>   | Category 1  | 8 pages  |                       |                           |                                   |
|   | Category 2  | 16 pages |                       |                           |                                   |
|   | Category 3  | 24 pages |                       |                           |                                   |
|   | Category 4  | 32 pages |                       |                           |                                   |
|   | Category 5  | 40 pages | <i>Not Applicable</i> |                           |                                   |
|   | Category 6  | 48 pages |                       |                           |                                   |
|   | Category 7  | 56 pages |                       |                           |                                   |
|   | Category 8  | 64 pages |                       |                           |                                   |
|   | Category 9  | 72 pages |                       |                           |                                   |
| <b>Saddle Stitch</b><br>27.7# Newsprint<br>Magazine Page Size :<br>8.25 " x 10.625" | Category 1  | 8 pages  | \$88.22               | \$8,822.34                |                                   |
|   | Category 2  | 16 pages | \$105.26              | \$10,526.04               |                                   |
|   | Category 3  | 24 pages | \$125.41              | \$12,541.15               |                                   |
|   | Category 4  | 32 pages | \$142.75              | \$14,275.22               |                                   |
|   | Category 5  | 40 pages | \$162.90              | \$16,290.32               |                                   |
|   | Category 6  | 48 pages | \$186.14              | \$18,614.19               |                                   |
|   | Category 7  | 56 pages | \$209.20              | \$20,920.59               |                                   |
|   | Category 8  | 64 pages | \$229.54              | \$22,953.85               |                                   |
|   | Category 9  | 72 pages | \$252.03              | \$25,203.37               |                                   |
|   | Category 10 | 80 pages | \$269.85              | \$26,984.79               |                                   |
| <b>Tabloid</b><br>27.7# Newsprint<br>Magazine Page Size:<br>11.375" x 17.5"         | Category 1  | 8 pages  | \$60.77               | \$6,076.79                |                                   |
|   | Category 2  | 12 pages | \$80.92               | \$8,091.89                |                                   |
|   | Category 3  | 16 pages | \$97.96               | \$9,796.71                |                                   |
|   | Category 4  | 20 pages | \$118.12              | \$11,811.82               |                                   |
|   | Category 5  | 24 pages | \$135.65              | \$13,564.77               |                                   |
|   | Category 6  | 28 pages | \$145.21              | \$14,521.89               |                                   |
|   | Category 7  | 32 pages | \$157.04              | \$15,704.05               |                                   |
|   | Category 8  | 36 pages | \$175.18              | \$17,517.65               |                                   |
|   | Category 9  | 40 pages | \$194.54              | \$19,453.97               |                                   |

| C. DISTRIBUTION/MAILING   |            |          | PRICE<br>per 1,000 | TOTAL PRICE<br>per 100,000 |
|---|------------|----------|--------------------|----------------------------|
| Price is for mail<br>services only.<br><br>Pricing does not<br>include USPS postage | Category 1 | 8 pages  | \$22.00            | \$2,200.00                 |
|   | Category 2 | 16 pages | \$22.00            | \$2,200.00                 |
|   | Category 3 | 24 pages | \$22.00            | \$2,200.00                 |
|   | Category 4 | 32 pages | \$22.00            | \$2,200.00                 |
|   | Category 5 | 40 pages | \$22.00            | \$2,200.00                 |
|   | Category 6 | 48 pages | \$22.00            | \$2,200.00                 |
|   | Category 7 | 56 pages | \$22.00            | \$2,200.00                 |
|   | Category 8 | 64 pages | \$22.00            | \$2,200.00                 |
|   | Category 9 | 72 pages | \$22.00            | \$2,200.00                 |

**\* MAGAZINE COLOR (8 page increments)**

For process color on 8 common magazine pages add \$750.

For process color on 8 additional common magazine pages (16 total) add \$750 .

For 2 color (spot color plus black) on cover and common pages add \$275.

For 2 color (spot color plus black) on 8 additional common pages add additional \$275 .

**\* TABLOID COLOR (4 page increments)**

For process color on 4 common pages (front cover, back cover, center two pages) add \$750 .

For process color on 4 additional common pages (8 total) add additional \$750.

For 2 color (spot color plus black) on cover and common pages add \$275.

For 2 color (spot color plus black) on 4 additional common pages add additional \$275.

**Delivery to Individual Post Offices (9 Total)**

Includes Truck Rental & Delivery   **\$750.00**