

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202012021 – 12

Originating Department:	85 Health and Community Services
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855040 Housing
Contract or Grant Administrator:	Ashley Geyleynse
Contractor's / Agency Name:	Lydia Place

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	202012021	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If No, include WCC:	3.08.100
Already approved? Council Approved Date:	(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)		

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

Is this contract grant funded?	If yes, Whatcom County grant contract number(s):	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	202307017	

Is this contract the result of a RFP or Bid process?	Contract Cost Center:
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): 20-53	122300

Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
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- If YES, indicate exclusion(s) below:
- | | |
|---|--|
| <input type="checkbox"/> Professional services agreement for certified/licensed professional. | <input type="checkbox"/> Goods and services provided due to an emergency. |
| <input type="checkbox"/> Contract work is for less than \$100,000. | <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). |
| <input type="checkbox"/> Contract work is for less than 120 days. | <input type="checkbox"/> Work related subcontract less than \$25,000. |
| <input type="checkbox"/> Interlocal Agreement (between Governments). | <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. |

Contract Amount:(sum of original contract amount and any prior amendments):	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when :
\$ 2,046,275	
This Amendment Amount:	
\$ 330,000	
Total Amended Amount:	
\$ 2,376,275	1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope: This amendment extends the contract through year end, updates grant compliance requirements, increases funding to support the extended contract period, and updates invoicing requirements.

Term of Contract:	1 Year	Expiration Date:	12/31/2024
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Contract Routing:	1. Prepared by:	JT	Date:	05/01/2024
	2. Health Budget Approval	JS	Date:	05/23/2024
	3. Attorney signoff:	Christopher Quinn	Date:	06/04/2024
	4. AS Finance reviewed:	A Martin	Date:	6/3/24
	5. IT reviewed (if IT related):		Date:	
	6. Contractor signed:		Date:	
	7. Executive Contract Review:		Date:	
	8. Council approved (if necessary):	AB2024-393	Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

WHATCOM COUNTY CONTRACT AMENDMENT
Emergency Shelter Operations

PARTIES:

Whatcom County
Whatcom County Health and Community Services
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Lydia Place
PO Box 28487
Bellingham, WA 98228

CONTRACT PERIODS:

Original:	10/01/2020 – 12/31/2021	Amendment #7:	01/01/2023 – 12/31/2023
Amendment #1:	10/01/2020 – 12/31/2021	Amendment #8:	03/01/2023 – 12/31/2023
Amendment #2:	01/01/2021 – 12/31/2021	Amendment #9:	05/10/2023 – 12/31/2023
Amendment #3:	08/11/2021 – 12/31/2021	Amendment #10:	01/01/2024 – 06/30/2024
Amendment #4:	01/01/2022 – 12/31/2022	Amendment #11:	04/01/2024 – 06/30/2024
Amendment #5:	01/01/2022 – 12/31/2022	Amendment #12:	07/01/2024 – 12/31/2024
Amendment #6:	10/01/2022 – 12/31/2022		

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

DESCRIPTION OF AMENDMENT:

1. Amend the original contract "General Terms, Section 10.2, Extension" to extend the duration of this agreement for a total of no longer than 3.5 years.
2. Amend Exhibit A – Scope of Work, to revise grant funding compliance requirements as the Commerce Emergency Housing Fund Grant transitions from federal to state funds and is added to the existing Consolidated Homeless Grant agreement.
3. Amend Exhibit B – Compensation, to increase funding to support the extended contract period and updates invoicing requirements.
4. Exhibit J Special Terms and Conditions of Commerce Grants is attached for reference and without revision.
5. Funding for this contract period (07/01/2024 – 12/31/2024) is not to exceed \$330,000.
6. Funding for the total contract period (10/01/2021 – 12/31/2024) is not to exceed \$2,376,275.
7. All other terms and conditions remain unchanged.
8. The effective start date of the amendment is 07/01/2024.

EXHIBIT "A" – Amendment #12
(SCOPE OF WORK)

I. Background

The 2022 Whatcom County Point In Time Count confirmed that unsheltered homelessness continues to be detrimental to the wellbeing of families with children in Whatcom County. The Whatcom Homeless Service Center's monthly housing pool reports have shown that the number of families waiting for permanent housing placements, including families living in cars and other places not meant for human habitation, has grown in recent years. Homelessness is a traumatic experience that is associated with a wide range of negative health outcomes; however, there are very few resources in our community dedicated to families experiencing homelessness. This contract provides year-round funding for motel rooms to be used as emergency housing for families experiencing unsheltered homelessness and also funds supportive services to help those families exit their motel rooms into permanent housing. The shelter provided to these families, as well as the case management services, will allow them to avoid the dangerous conditions of unsheltered homelessness and give them opportunities to connect with services that improve their odds of achieving long term housing stability.

II. Statement of Work

Lydia Place will utilize funding in this contract to provide motel room stays throughout the year to local families with children who are experiencing unsheltered homelessness. The anticipated number of families to be served annually is 52-56 households. While the families are staying in the motel rooms, they will benefit from supportive services from Lydia Place staff who will help the families identify and overcome their barriers to stable housing.

Lydia Place staff will connect clients to case managers within 48 hours of their referral from Whatcom County's coordinated entry homelessness response system. Weekly meetings between families and Lydia Place staff will outline goals and objectives that are important to the client. The case managers will strive to find permanent housing within 60 days, although some families will require more time to locate appropriate housing and resolve challenges to housing placement.

III. Program Requirements

- a. Client referrals will be issued by the Whatcom Homeless Service Center's coordinated entry homelessness response system.
- b. The Contractor will comply with all State of Washington Department of Commerce Special Terms and Conditions of Commerce Grants (see attached Exhibit J)
- c. The Contractor will comply with all Washington State Department of Commerce Consolidated Homeless (CHG) Grant requirements, eligible costs, policies, and procedures in the CHG Guidelines including periodic updates to the Guidelines which can be accessed at the following link:
<https://deptofcommerce.app.box.com/s/4d1ilui45uqljmhiseufez4flxqv1q6b>
- d. The Emergency Housing Funds will become a component of the Consolidated Homeless Grant on July 1, 2024 but are subject to unique restrictions, as outlined in Section e., below.
- e. Allowable activities and expenses follow the CHG/System Demonstration Grant (SDG) Guidelines which can be accessed at : <http://www.commerce.wa.gov/serving-communities/homelessness/consolidated-homeless-grant/> Allowable activities for Emergency Housing Funds are restricted to "emergency housing" activities, to include: street outreach, diversion, emergency shelter including hotel/motel leasing, sanctioned encampments, transitional housing, rapid re-housing, housing search and placement, and housing stability case management. Emergency Housing Funds may not be used for homelessness prevention or permanent supportive housing projects in either State Fiscal Year '24 or State Fiscal Year '25.
- f. Household eligibility requirements also follow the CHG/SDG Guidelines.

IV. Reporting Requirements

Additionally, the County is required to report HMIS project expenditures to the Washington State Department of Commerce for their annual report submitted to the Washington State Legislature. When requested, the Contractor shall provide the County with the necessary expenditure information in a timely manner, and make information available regarding motel census, length of stay, previous discharge dates and destinations, and household progress when requested.

EXHIBIT “B” – Amendment #12
(COMPENSATION)

I. Budget and Source of Funding: The source of funding for the contract period (07/01/2024 – 12/31/2024) shall not exceed \$330,000. Funding for this contract is provided by the Washington State Department of Commerce Consolidated Homeless Grant – Emergency Housing Funds. COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor’s performance of this contract. The budget for this contract is as follows:

CHG Emergency Housing Funds (July 1 – December 31)		
Cost Description	Documents Required with Each Invoice	Budget
**Case Management and Supportive Services (Personnel)	GL Detail	\$30,000
Motel Costs		\$270,000
Subtotal		\$300,000
*Indirect 10% MTDC		\$30,000
TOTAL		\$330,000

- * In no instance shall indirect costs exceed the amounts indicated above. Modified Total Direct Cost (MTDC) – All direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition reimbursement, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.
- ** The Contractor will submit composite rate worksheets as documentation for each staff member assigned to the program, hours worked and rate of pay. These worksheets shall be submitted annually or when staff rate(s) change.

Contractor’s Invoicing Contact Information:	
Name	
Phone	
Email	

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

EXHIBIT "B.1"
Invoicing – General Requirements

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

EXHIBIT "B.2"
Invoice Preparation Checklist For Vendors

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

Send the invoices to the correct address:

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

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

Verify that:

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

Whatcom County will not reimburse for:

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

EXHIBIT "J"
Special Terms and Conditions of Commerce Grants

The funds allocated for services performed under this grant are Washington State Department of Commerce funds. The terms included in this agreement and any additional agreements herein are a result of the grant funding requirements. Commerce and the State of Washington are liable for claims or damages arising from the Contractor's performance of this subgrant.

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Grantee.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "Subgrantee/Subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "subgrantee/subcontractor" refers to any tier.
- H. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

Recipient understands and agrees that the funds disbursed under this award may only be used for the purposes set forth in American Rescue Plan Act of 2021, Coronavirus State Fiscal Recovery Fund.

The Contractor agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Contract, shall contain the following statements:

"This project was supported by a grant awarded by US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the Coronavirus State Fiscal Recovery Fund through the Washington State Department of Commerce."

3. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

4. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

5. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

6. AUDIT

If the Grantee is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

- A. Submit to COMMERCE the reporting package specified in Uniform Guidance 2 CFR 200, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than \$750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to <https://facweb.census.gov/GSARedirect.html>.

7. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
 - iii. All personal information in the possession of the Grantee that may not be disclosed under state or federal law.
- B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

8. COPYRIGHT

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the

author of such Materials. In the event the Materials are not considered “works for hire” under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

“Materials” means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. “Ownership” includes the right to copyright, patent, register and the ability to transfer these rights. For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

9. DUPLICATE PAYMENT

COMMERCE shall not pay the Grantee, if the Grantee has charged or will charge the State of Washington or any other party under any other Grant, subgrant/subcontract, or agreement, for the same services or expenses.

10. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and any applicable federal laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

11. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers or agents.

12. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended.

13. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

14. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this Grant.

A Grantee which is a nonprofit organization shall establish procurement policies in accordance with 2 CFR Part 200, for all purchases funded by this Contract.

The Grantee’s procurement system should include at least the following:

- A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.
- B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- C. Minimum procedural requirements, as follows:
 - i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
 - ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
 - iii. Positive efforts shall be made to use small and minority-owned businesses.
 - iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
 - v. Contracts shall be made with only reasonable subgrantees/subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
 - vi. Some form of price or cost analysis should be performed in connection with every procurement action.
 - vii. Procurement records and files for purchases shall include all of the following:
 - 1) Contractor selection or rejection
 - 2) The basis for the cost or price
 - 3) Justification for lack of competitive bids if offers are not obtained
 - viii. A system for contract administration to ensure Contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.
- D. Contractor and Subgrantee/subcontractor must receive prior approval from COMMERCE for using funds from this Contract to enter into a sole source contract or a contract where only one bid or proposal is received when value of this Contract is expected to exceed \$5,000.

15. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE'S name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

16. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity. Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

17. RECORDS MAINTENANCE

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

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

18. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may suspend or terminate the Grant under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

19. SEVERABILITY

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.

20. SUBGRANTING/SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Grant. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

21. SITE SECURITY

While on COMMERCE premises, Grantee, its agents, employees, or subcontractors shall conform in all respects with physical, fire, or other security policies or regulations.

22. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

23. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i)

issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant.
- B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant.
- E. All reference to the Grantee under this clause shall also include Grantee's employees, agents, or Subgrantees/Subcontractors.

24. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.