

WHATCOM COUNTY
CONTRACT INFORMATION SHEET

Whatcom County Contract Number:

Originating Department:		85 Health and Community Services		
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing		
Contract or Grant Administrator:		Eric Chambers		
Contractor's / Agency Name:		Opportunity Council		
Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes ☐	No ☐	
Yes ☒ No ☐	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:			
Does contract require Council Approval?	Yes ☒ No ☐	If No, include WCC:		
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)		
Is this a grant agreement?				
Yes ☐ No ☒	If yes, grantor agency contract number(s):	ALN#		
Is this contract grant funded?				
Yes ☐ No ☒	If yes, Whatcom County grant contract number(s):			
Method of Procurement:	RFP 22-52	Contract Cost Center:	12471001.6610	
Is this agreement excluded from E-Verify?	No ☒ Yes ☐			
If YES, indicate exclusion(s) below:				
☐ Professional services agreement for certified/licensed professional.		☐ Goods and services provided due to an emergency.		
☐ Contract work is for less than \$100,000.		☐ Contract for Commercial off the shelf items (COTS).		
☐ Contract work is for less than 120 days.		☐ Work related subcontract less than \$25,000.		
☐ Interlocal Agreement (between Governments).		☐ Public Works - Local Agency/Federally Funded FHWA.		
Contract Amount:(sum of original contract amount and any prior amendments):		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 :		
\$	944,084	1. Exercising an option contained in a contract previously approved by the council.		
This Amendment Amount:		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.		
Total Amended Amount:		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 contract supports the construction of a child care facility within Unit 2 of the Bellis Fair Family Housing Condominium.				
Contract Term Ends:	09/30/2028			
Contract Routing:	1. Prepared by:	EC	Date:	10/08/2025
	2. Health Approval:	CR	Date:	10/21/2025
	3. Attorney signoff:	CQ	Date:	11/06/2025
	4. AS Finance reviewed:	Bbennett	Date:	11/07/2025
	5. IT reviewed (if IT related):		Date:	
	6. Contractor signed:		Date:	
	7. Executive Contract Review:		Date:	
	8. Council approved (if necessary):		Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

CONTRACT FOR SERVICES
Between Whatcom County and Opportunity Council

Opportunity Council, 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 13,
Exhibit A (Scope of Work), pp. 14 to 19,
Exhibit B (Compensation), pp. 20 to 22,
Exhibit C (Certificate of Insurance), p. 23,
Exhibit D (Covenant), pp. 24 to 28,
Exhibit E (RFP Response).

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 19th day of November, 2025, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of September, 2028.

The general purpose or objective of this Agreement is to increase the number of childcare slots for low-income families, as defined herein, through the funding of the interior build out of a child care facility to be located on Unit 2 of the Bellis Fair Family Housing Condominium in Whatcom County, which project is more fully and definitively described in Exhibit A hereto (the "Project"). The language of Exhibit A controls in case of any conflict between it and that provided here. The child care facility is to be owned and operated by BELLIS FAIR EARLY LEARNING, LLC, a Washington limited liability company (the "**Company**"). The Contractor is the manager and controlling member of the Company. The Contractor and the Company shall not sell, transfer, assign, or otherwise alter ownership, control, or management interests in the Company or the Project without the County's prior written consent. Any such change without approval shall constitute a default under this Agreement.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$944,084. 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.

Each person signing this Contract represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Contract on behalf of the respective party.

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

CONTRACTOR:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

Greg Winter, Opportunity Council

Date

WHATCOM COUNTY:

Recommended for Approval:

Ann Beck, Community Health & Human Services Manager Date

Charlene Ramont, Assistant Director Date
Whatcom County Health and Community Services

Approved as to form:

Christopher Quinn, Chief Civil Deputy Prosecutor Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive Date

CONTRACTOR INFORMATION:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225
Greg_Winter@oppco.org

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, consideration and other terms and conditions of this Agreement may be extended after the initial term of this Agreement by mutual written consent of the parties.

Extensions may be for a period of up to one year per extension, and for a cumulative total of no longer than four years including the original term.

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, creditors, the County shall give the Contractor written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Contractor shall have such period to effect a cure prior to exercise of remedies by the County. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and if Contractor (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith work to effect a cure as soon as possible, then Contractor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the County. Following the expiration of the foregoing cure period, 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 the actual work performed at unit contract prices for completed items of work. An equitable adjustment of the contract price for partially completed items of work will be made, but such adjustments shall not include the provision for loss of anticipated profit on deleted or uncomplete 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:

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

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

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced and Public Records Act:

All nonproprietary and nonconfidential 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.

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 confidential and proprietary 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 cause the Company to 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

The Contractor shall, cause the Company at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Company, its agents, representatives, subcontractors or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Company without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage

\$500,000.00, per occurrence

General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Contractor Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Business Automobile Liability

\$1,000,000.00	Minimum, per occurrence
\$2,000,000.00	Minimum, Annual Aggregate

Contractor cause the Company shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If the Company owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

3. Additional Insurance Requirements and Provisions When applicable, the provisions in this section shall refer to the Contractor's obligations to cause the Company to maintain the applicable insurance terms provided herein.

- a. All insurance policies shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on the Company and Company's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Company and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall cause the Company to provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non- contributory to Company's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Company to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor shall cause the Company to agree to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Company enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor shall cause the Company to furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Contractor must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the

description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.

- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Contractor shall cause the Company to always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.
- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.
- j. Workers' Compensation. The Contractor shall cause the Company to maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all the Company's employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to cause the Company to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Contractor were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 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 negligence or intentional misconduct of the County or its departments, contractors, subcontractors, elected and appointed officials, employees, agents and volunteers.

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:

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:

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:

Eric Chambers, Special Projects Manager
Whatcom County Health and Community Services

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:

Whatcom County Health and Community Services
Eric Chambers, Special Projects Manager
509 Girard Street
Bellingham, WA 98225
EKChambe@co.whatcom.wa.us

Opportunity Council
Greg Winter, Executive Director
1111 Cornwall Ave.
Bellingham, WA 98225
Greg.Winter@oppco.org

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 principles 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

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)

For the avoidance of doubt, the Project is to be owned by BELLIS FAIR EARLY LEARNING, LLC, a Washington limited liability company (the "Company"). The Contractor is the manager and controlling member of the Company. All instances which refer to Contractor, shall, as applicable, refer to the Contractor causing the Company to achieve the same.

I. Background and Purpose

This contract funds the construction of the Company's build out of the interior of the Early Learning Center located in Unit 2 of the Bellis Fair Family Housing Condominium located in Whatcom County on the real property more particularly described below (the "Project").

Once complete, the facility will create an additional 70 child care slots, of which no less than 25% will be reserved for children from households that have an income 85% or lower than the current state median income (SMI). The Contractor will cause the Company to maintain the child care affordability for no less than ten (10) years. The affordability and use requirements shall be memorialized in the recorded Covenant enforceable by the County as a restriction on title.

The County's contribution to this project will not exceed \$944,084 and the total project cost is approximately \$3,580,960.

II. Scope of Work

The Contractor will facilitate the construction of the interior build out of the Project in a substantially similar form to the description in their response to RFP 22-52 (see attached Exhibit E) or as otherwise agreed to in writing between the County and the Contractor.

The project implementation will occur in two phases: Capital and Monitoring. The Capital phase begins when the Contractor receives a fully-executed agreement for this work from the County and the Monitoring Phase begins with the end of the Capital Phase and continues for ten (10) years.

A. The Contractor's responsibilities during the Capital Phase include:

1. Attending a kickoff meeting with the County-designated Contract Administrator.
2. Procuring, through a competitive process, a contractor and, if required, subcontractors to complete the work if not already procured as part of the larger affordable housing complex design and construction.
3. Obtaining all required permits.
4. Contractor shall submit to the County a final construction schedule, procurement plan, and proof of insurance and bonding for all contractors and subcontractors before work begins.
5. Completing construction of the interior of the facility in a manner substantially similar to the description in the Opportunity Council's response to RFP 22-52.
6. Either, agreeing to operate the facility or identifying a provider to operate the facility.
 - a. If Opportunity Council will cause the Company to contract with a third party for the operation of the facility, they must enter into a binding lease agreement for the use of the space with the third party, hereinafter, the Tenant. The lease must be approved by the County-designated Contract Administrator and must include the following terms and conditions:
 - i. The facility must be licensed by the Washington State Department of Children Youth and Families (DCYF) as a child care facility.
 - ii. Be for a period of no less than ten (10) years as either a single-term of service or through contract extensions.
 - iii. Allow the County's Contract Administrator or designee, access to the facility for the

purposes of monitoring general contract requirements, affordability requirements, and other terms as identified in the Covenant.

- iv. Include a requirement for quarterly reports and annual site visit as outlined in ix., x., and xi., below.
- v. Include a requirement to report any licensing inspections that result in an adverse finding including, but not limited to, compliance action, enforcement action, facility licensing compliance agreements, or loss of license within fourteen (14) days of notification.
- vi. Include a provision to provide a minimum of seventy (70) child care slots as outlined below.
 - a. For the purposes of compliance, a slot is defined as either a part-time slot, a full-time slot, or a working day slot.
 - 1. A part-time slot is at least three (3) hours per day and less than 5.5 hours a day and is the equivalent to 0.5 slots.
 - 2. A full-time slot is at least 5.5 hours to 9.5 hours and is the equivalent to 1.0 slots.
 - 3. A working day slot is 10 hours per day and is equivalent to 1.5 slots.
 - b. To meet the requirements below, any combination of part-time, full-time, or working day slots may be used.
- vii. Include a requirement to collect, at a minimum, the following demographic information for each child at intake: age and income status for those filling low income slots.
- viii. Include a requirement to reserve a minimum of 25% of the seventy (70) slots for children from households that have income 85% or lower than the state median income.
 - a. Families that qualify for assistance through the Working Connections Child Care Program are also eligible.
 - b. For the purposes of compliance with this requirement the County will update the Contractor each year, on or about January 1, with the most current AMI.
- ix. Provide to the County, quarterly utilization reports, due on the 15th of the month following the completion of the previous quarter. Quarters are defined as follows:
 - a. First Quarter: January 1 through March 31
 - b. Second Quarter: April 1 through June 30
 - c. Third Quarter: July 1 through September 30
 - d. Fourth Quarter: October 1 through December 31
- x. Quarterly reports must include the following:
 - a. Average # of part-time, full-time, and working day slots filled.
 - b. Average # of part-time, full-time, and working day slots filled with qualifying child.
 - c. Average # of toddlers, preschool-aged, and school-age children.
 - 1. Per WAC 100-300-0005, a "toddler means a child 12-months through 29 months," a preschool-aged child is "30 months through six (6) years of age not attending kindergarten or elementary school" and a school aged child is one "who is five years of age through twelve (12) years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW."

- xi. Make available the necessary time and other resources necessary to participate in an annual site visit with the County-designated Contract Manager.
 - xii. Require reporting to the County when an event of unusual and significant nature occurs, whether or not directly related to the project, the Tenant is responsible for notifying the County's Contract Administrator as soon as reasonably possible with the chain of events, persons participating, response, and other pertinent information.
 - xiii. Maintain books, records, documents, and other evidence directly related to the performance of the work in accordance to Generally Acceptable Accounting Principles (GAAP) when applicable, in which Whatcom County, or any of its duly authorized representatives, shall have access to for inspection and audit for a period of five years beyond the last date of service, which is five (5) years after the Monitoring Phase has ended. Specific records including:
 - a. Records used to determine financial eligibility
 - b. Any applicable child care licenses, modifications, inspections, and corrective action plans, if any.
 - c. Document related to their service delivery model, experience working with the County, and the monitoring process.
 - xiv. Require maintenance of the facility as a fully licensed child care facility by the Washington State Department of Children Youth and Families (DCYF).
- 7. Attend a transition meeting with the County's Contract Administrator, including a site inspection.
 - 8. During the Monitoring Phase, the Contractor shall ensure the space is operated as a licensed child care facility for a period of at least ten (10) years.
- B. The Contractor's responsibilities during both the Capital and Monitoring Phases include:
- 1. Maintaining site control of the facility.
 - 2. Maintaining books, records, documents, and other evidence directly related to the performance of the work in accordance to Generally Acceptable Accounting Principles (GAAP) when applicable, in which Whatcom County, or any of its duly authorized representatives, shall have access to for inspection and audit for a period of five years beyond the last date of service, which is five (5) years after the Monitoring Phase has ended, including, but not limited to.
 - a. Invoices and supporting documentation, including procurement records, for all reimbursable expenses.
 - b. Any tenant lease agreements, modifications, and renewals.
 - c. Document and make available, information regarding their acquisition activities, experience working with the County, and the covenant process.

III. Additional Requirement (applicable if the Contractor Leases the Facility to a Child care Provider)

The County may, in the event of the failure or default of either the Contractor or the Tenant to ensure the proper use of the property as provided in his contract, exercise all rights and remedies available to the County for that purpose. Proper use is defined as:

- A. The property shall be used actively to provide licensed child care services for a period of no less than ten (10) years beginning with the start of the Monitoring Phase.
- B. At least 25% of the licensed child care slots, of the seventy (70) offered by the Tenant, shall be filled by children from households that, at the time of enrollment and annually thereafter, have a gross annual household income at or below eighty-five percent (85%) of the state median income, as defined by the United States Department of Housing and Urban Development (HUD) and adjusted for household size.

1. In the event that HUD ceases to provide such estimates of AMI, then AMI shall mean such comparable figures for Whatcom County, Washington as published or reported by a federal, state, or local agency as the County shall reasonably select. The County may, at its sole discretion, broaden eligibility to better reflect the needs of families in Whatcom County. Any such adjustments will be communicated to the Contractor and Tenant, per the notification requirements in this contract's General Conditions, Section 37.2, Notice.
- C. The Contractor shall terminate the agreement with the Tenant if the Tenant is in default with the agreement with the Contractor.
- D. The Contractor shall start the process to terminate the agreement with the Tenant as expeditiously as possible and in no case later than thirty (30) days of receiving notice from the County that the Tenant is in default of their agreement with the Contractor and all other remedies have been exhausted. Default with the agreement with the Contractor for the purpose of this section means:
 1. The Tenant has failed to maintain the property as provided for in the agreement.
 2. The Tenant has failed to obtain or maintain the necessary licensing to provide child care, as issued by the Washington State Department of Children, Youth and Families.
 3. That enrollment of the child care does not meet the requirements of Section III.(b.), above.
- E. In the event of default by the Tenant, the Contractor agrees to lease the property to another licensed or licensable child care provider, subject to mutual acceptance of a lease with substantially similar terms and conditions as the original agreement between the Tenant and the Contractor.
 1. The County may waive this requirement if neither the Contractor nor the County can identify an appropriate tenant within six (6) months of vacancy or in the event the County recovers the County award in full from the Contractor.
- F. The Contractor shall comply with all federal, state, and local laws and codes regarding the condition of the property and any improvements to the property.
- G. Contractor and Tenant improvements that change the form or function of the facility must be approved, in writing, by the County's Contract Administrator.

IV. Public Works Requirements

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

The statute excludes "ordinary maintenance," which is generally defined in WAC 296-127-010(7)(b)(iii) (as may be amended) as either (1) work not performed by contract and that is performed on a regularly scheduled basis (e.g., daily, weekly, monthly, seasonally, semi-annually, but at least once per year), to service, check, or replace items that are not broken; or (2) work not performed by contract that is not regularly scheduled but is required to maintain an asset so that repair does not become necessary.

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

Upon request of the County, the Contractor shall provide documentation that confirms the Contractor's compliance with the requirements of RCW 39.04 and other state statutes concerning Public Works requirements. The Contractor shall submit certified payroll records, bid documentation, and retainage account information to the County upon request to verify compliance with RCW 39.04 and RCW 39.12.

V. Retainage

The Contractor shall comply in all aspects with the requirements of RCW 60.28.011 or other law applicable to it, including, but not limited to, the provisions thereof, to the extent applicable to the Contractor, which require the

holding of certain amounts of payments to be made to contractors working and the deposit of such amounts in an escrow account, or as otherwise may be held, pursuant to authorized under RCW 60.28.011. The County will not authorize release of retainage until the County has received: (1) evidence of satisfactory completion and occupancy; (2) all required releases of liens; and (3) written verification of compliance with prevailing wage, bonding, and insurance requirements.

VI. Reporting Requirements During Construction

- A. Clear communication is essential for project success. During the construction phase, the Contractor must cause the Company to provide quarterly progress reports to the County's Contract Administrator. Progress reports must include, at a minimum, the following:
 - 1. Progress, including any milestones achieved;
 - 2. Outline of a plan for the coming quarter; and
 - 3. Any problems experienced
- B. In addition to quarterly reports, the Contractor shall communicate with the County's Contract Administrator within 48 hours, when:
 - 1. An event occurs that could substantially threaten the scope, budget, or schedule;
 - 2. Any other event of unusual and significant nature that occurs whether directly or indirectly related to the project; and
 - 3. Reports will include a description of the chain of events, personnel involved, response, and any other pertinent information.

VII. Ongoing Monitoring of the Covenant

- A. Upon completion of the facility, the Company will sign and cause to be recorded, a child care covenant ("Covenant") substantially similar to the sample covenant found in Exhibit D, which shall expressly restrain its use for a period of no less than 10 years. The Covenant shall be recorded with the Whatcom County Auditor prior to final disbursement of County funds, and shall expressly provide that its terms are enforceable by the County against successors and assigns.
- B. The County will conduct annual monitoring for compliance with the terms of this contract and the terms of the Covenant (Exhibit D).
- C. During the Construction and Covenant Phases, the Contractor will cause the Company to:
 - 1. Maintain site control of the land and facility located on Parcel Number: 380213 312479 0000 - County PID: 192705.
 - 2. Maintain books, records, documents, and other evidence directly related to the performance of the work in accordance to Generally Acceptable Accounting Principles (GAAP) when applicable, in which Whatcom County, or any of its duly authorized representatives, shall have access to for inspection and audit for a period of five years beyond the end date of this contract. Specifically, supporting documentation for all reimbursable expenses.
 - 3. The Contractor shall provide the County with annual compliance certifications, including proof of current licensure, occupancy data, and demographic reporting verifying adherence to affordability requirements.]

VIII. Project Closeout

Project closeout occurs when the following conditions have been met:

- A. The County has satisfied their financial commitment to the Contractor;

- B. The Company has operated as a licensed child care facility in the manner described herein for a period of ten (10) years beyond the Capital Phase;
- C. The Company has resolved all monitoring and compliance issues, if any, with the County, including any with the Tenant, if applicable; and
- D. The Company has participated in an exit interview with the County's Contract Administrator or designee.

IX. LEGAL DESCRIPTION

UNIT 2, BELLIS FAIR FAMILY HOUSING, A CONDOMINIUM, ACCORDING TO THE DECLARATION THEREOF RECORDED UNDER WHATCOM COUNTY RECORDING NUMBER 2025-1001841, AND ANY AMENDMENTS THERETO; SAID UNIT IS LOCATED ON SURVEY MAP AND PLANS RECORDED UNDER RECORDING NO. 2025-1001842 IN WHATCOM COUNTY, WASHINGTON.

EXHIBIT "B"
(COMPENSATION)

Budget and Source of Funding: Funding for this contract may not exceed \$944,084 and is provided by the Community Priorities Fund. Funding will be disbursed on a reimbursement basis to the Contractor for the costs described below and subject to the terms and conditions outlined in Exhibits B, B.1, and B.2.

In addition to the Contractor-generated invoice and documentation requirements described in Exhibits B., B1, and B2, invoices must include the following:

- a. An invoice number generated by the Contractor;
- b. Contract number assigned by Whatcom County;
- c. The current date(s) of service or work performed;
- d. Vendor name and DBA, if applicable;
- e. Itemized list of all goods and services if not clearly listed on the subcontractor's documentation; and
- f. The signature of the Contractor or designee. Electronic signatures are acceptable.

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

- a. The Vendor's (construction contractor/subcontractor) intent to ID number, issued by the Washington State Labor and Industry upon filing the "Statement of Intent to Pay Prevailing Wages", when applicable; and
- b. Procurement documentation

Approved goods and services include:

Cost Description	TOTAL Budget
Capital Expenses	
Construction Hard Costs and Fees for Architectural and Engineering Services	\$944,084

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

Contractor's Invoicing Contact Information:	
Name	
Phone	
Email	

EXHIBIT “B.1” – Invoicing – General Requirements

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

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

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

- ☐ Send the invoices to the correct address:

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

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

Verify that:

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

Whatcom County will not reimburse for:

- Alcohol or tobacco products;
- Traveling Business or First Class; or

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)

Prior to the release of funds under this contract, the Contractor must provide evidence of insurance as outlined in this Contract's General Conditions, Section 34.1 – Insurance.

As applicable, the provision in Section 34.1 of the Contract refers to the Contractor's obligations to cause the Company to maintain the applicable insurance terms.

EXHIBIT "D"
(COVENANT)

When Recorded Return to:

Whatcom County Department Health and Community Services
ATTN: Eric Chambers
509 Girard Street
Bellingham, WA 98225

RESTRICTIVE CHILD CARE COVENANT

Grantor: BELLIS FAIR EARLY LEARNING, LLC.

Grantee: Whatcom County Abbreviated Legal:

Assessor's Tax Parcel Number(s): 3802133124790000

IN CONSIDERATION for receipt of funds from Whatcom County (Grantee, herein referred to as "COUNTY"), the Bellis Fair Learning, LLC, a Washington limited liability company, its successors and assigns (hereinafter referred to as "GRANTOR") agrees to construct and build an EARLY LEARNING FACILITY located in Unit 2 of the Bellis Fair Family Housing Condominium, real PROPERTY (herein referred to as "PROPERTY") as legally described below and,

UNIT 2, BELLIS FAIR FAMILY HOUSING, A CONDOMINIUM, ACCORDING TO THE DECLARATION THEREOF, RECORDED UNDER AUDITOR'S FILE NO. 2025-1001841 AND ANY AMENDMENTS THERETO, RECORDS OF WHATCOM COUNTY, WASHINGTON. SAID UNIT IS LOCATED ON SURVEY MAP AND PLANS RECORDED UNDER RECORDING No. 2025-1001842 IN WHATCOM COUNTY.

SITUATED IN WHATCOM COUNTY, WASHINGTON.

The GRANTOR intends, agrees and makes the DECLARATION OF RESTRICTIVE COVENANTS (Hereinafter referred to as "COVENANT") as follows herein.

This Covenant will be filed and recorded in the official public land records of Whatcom County, Washington and shall constitute a restriction upon the use of the PROPERTY described herein, subject to and in accordance with the terms of this Covenant, for ten years (10) years beginning after the PROPERTY is licensed by DCYF as an Early Learning Facility.

RECITALS

WHEREAS the GRANTOR owns PROPERTY, land and common areas at the PROPERTY located 33 Bellis Fair Parkway as legally described herein in Bellingham, Washington, and,

WHEREAS, the GRANTOR entered into an agreement with the COUNTY for the consideration of funds from Whatcom County to construct the interior of the Early Learning Facility at the PROPERTY for the express purpose of establishing an Early Learning Facility to provide licensed child care for a period not less than ten (10) years after PROPERTY is licensed by DCYF for use as an Early Learning Facility and the recording of this Covenant and,

WHEREAS, the GRANTOR is creating a real property restrictive Covenant on the PROPERTY for purposes of ensuring the PROPERTY for the provision of licensed child care for a period of not less than 10 years at the PROPERTY commencing on the date the PROPERTY is licensed by DCYF as an Early Learning Facility and, recording on this document, and,

WHEREAS, the GRANTOR, agrees to reserve, twenty percent (25%) of all child care slots at the PROPERTY be reserved for children from families meeting low-income thresholds as described in Section 3 Paragraph 2, and,

NOW THEREFORE, in consideration of the promises and Covenants hereinafter set forth and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the GRANTOR intends, declares, and Covenants that the restrictive Covenants set forth herein governing the use, occupancy, and transfer of the PROPERTY shall be and are Covenants pertaining to the PROPERTY and running with the land for the term stated herein and are binding upon all subsequent owners of the PROPERTY and for such terms, except as specifically provided herein, and are not merely personal Covenants of the GRANTOR.

SECTION 1

REPRESENTATIONS, COVENANTS AND WARRANTIES OF GRANTOR

GRANTOR hereby represents, Covenants and warrants as follows:

1. GRANTOR voluntarily establishes this real property covenant over the PROPERTY for a period of no less than 10 years commencing the date the property is licensed by the Department of Child, Youth and Family Services as an Early Learning Facility and subject to the terms and conditions set

forth herein exclusively for the purpose of ensuring the PROPERTY is actively used for purposes of providing licensed child care services.

2. GRANTOR hereby Covenants and agrees not to sell, transfer or otherwise dispose of the PROPERTY or any portion thereof, without first providing written notice to the buyer and obtaining the agreement of any buyer or successor or other person acquiring the PROPERTY or any interest therein, that such acquisition is subject to the requirements of this Covenant and to the child care Requirements provided for herein; provided however, that nothing contained in this Covenant shall restrict transfers of interests.
3. GRANTOR will, at the time of execution, delivery and recording of this Covenant, have good and marketable title to the PROPERTY, free and clear of any liens or encumbrances (except encumbrances created pursuant to this Covenant or other permitted encumbrances identified in Section 2), including, without limitation, the exceptions set forth in the GRANTOR'S policy of title insurance.
4. GRANTOR warrants that it has not and will not execute any other Covenant or deed restriction with provisions contradictory to, or in opposition to, the provisions hereof other than the Permitted Encumbrances or, as otherwise approved by the COUNTY.

SECTION 2

RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

1. Upon execution of this Covenant by the GRANTOR, GRANTOR shall cause this Covenant and all amendments hereto to be recorded in the Whatcom County Auditor's Office. GRANTOR shall pay all fees and charges incurred in connection therewith.
2. GRANTOR intends, declares and Covenants, on behalf of itself and all future owners of the PROPERTY during the term of this Covenant, that this Covenant and the Covenants and restrictions set forth in this Covenant regulating and restricting the use, occupancy and transfer of the PROPERTY shall
 - 2.1. constitute Covenants running with the land, encumbering the PROPERTY for the term of this Covenant, binding upon GRANTOR and GRANTOR'S successors in title and all subsequent owners of the PROPERTY and not merely personal Covenants of GRANTOR; and
 - 2.2. bind the GRANTOR (and the benefits shall inure to the County and any past, present or prospective owner of the PROPERTY) and GRANTOR'S respective successors and assigns during the term of this Covenant.
3. GRANTOR hereby agrees that any and all requirements or privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to ensure that these restrictions run with the land. For the term of this Covenant, each and every contract, deed or other instrument hereafter executed conveying the PROPERTY or portion thereof shall expressly provide that such conveyance is subject to this Covenant, provided, however, the Covenants contained herein shall survive and be effective regardless of whether such contracts, deed, or other instrument hereafter executed conveying the PROPERTY or portion thereof provides that such conveyance is subject to this Covenant

SECTION 3 ENFORCEMENT OF CHILD CARE REQUIREMENTS

The PROPERTY will be bound by the terms of this Covenant at each sale or transfer, for the purposes of providing child care in Whatcom County. GRANTOR hereby declares and Covenants, on behalf of itself and all future owners of the PROPERTY, that, during the term of this Covenant, the County is a third-party beneficiary of and successor to each and every remedy provided in the Covenant or in law intended to insure the use of the PROPERTY for the purposes defined herein. The COUNTY may, in the event of the failure or default of the GRANTOR, insure the proper use of the PROPERTY as provided for in Covenant and exercise all rights and remedies available to the County for that purpose. Proper use is defined as:

1. The PROPERTY shall be used actively to provide licensed child care services for not less than ten (10) years after the PROPERTY is licensed by DCYF as an Early Learning Facility , and recording of this covenant.
2. At least 25% of the licenses child care slots offered by GRANTOR shall be filled by children from households that, at the time of enrollment and annually thereafter, have a gross annual household income at or below eighty-five percent (85%) of the local area median income, as defined by the United States Department of Housing and Urban Development (HUD) and adjusted for household size. In the event that HUD ceases to provide such estimates of state median income, then state median income shall mean such comparable figures for Whatcom County as published or reported by a federal, state, or local agency as the COUNTY shall reasonably select. The COUNTY may, at its sole discretion, broaden eligibility to better reflect the needs of families in Whatcom County. Any such adjustments will be communicated to the GRANTOR per the notification requirements in Section 5, Paragraph 2;
3. The GRANTOR shall comply with all federal, state, and local laws and codes regarding the condition of the PROPERTY and any improvements to the PROPERTY;
4. In the event of default by the GRANTOR, the GRANTOR agrees to lease the PROPERTY to another child care provider, subject to mutual acceptance of standards terms and conditions for similar sized facilities and at a cost that preserve the public benefit.
 - 4.1. The COUNTY may waive this requirement if neither the GRANTOR nor the COUNTY can identify an appropriate TENANT within six (6) months of vacancy or in the event the COUNTY recovers the COUNTY award in full from the GRANTOR.
5. GRANTOR Covenants that it will not knowingly take or permit any action that would result in a violation of the terms of this Covenant. The COUNTY, together with GRANTOR, may execute and record any written amendment or modification of this Covenant and such amendment or modification shall be binding on third parties' rights granted under this Covenant.
6. GRANTOR acknowledges that the primary purpose for requiring compliance by GRANTOR with restrictions provided in this Covenant is to assure compliance with the child care use requirements

imposed as a term of funding by the COUNTY, AND BY REASON THEREOF, GRANTOR IN CONSIDERATION FOR RECEIVING FUNDS TO CONSTRUCT an Early Learning Center at THE PROPERTY HEREBY AGREES AND CONSENTS THAT THE COUNTY SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREIN, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE BY SPECIFIC PERFORMANCE, GRANTOR'S OBLIGATIONS UNDER THIS COVENANT IN A STATE COURT OF COMPETENT JURISDICTION. GRANTOR hereby further specifically acknowledges that the beneficiaries of GRANTOR'S obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. If legal costs are incurred by the COUNTY, such legal costs, including attorney fees and court costs (including costs of appeal), are the responsibility of, and may be recovered from GRANTOR.

SECTION 4 MISCELLANEOUS

1. **Severability.** The invalidity of any clause, part, or provision of this Covenant shall not affect the validity of the remaining portions thereof.
2. **Notices.** Any Notice shall be in writing and shall be given by depositing the same in the United States mail, postage paid and registered or certified, and addressed to the party to be notified, with return-receipt requested, or by delivering the same in person to an officer or principal of such party. Notices deposited in the mail in the manner hereinabove described shall be effective upon mailing.
3. **Governing Law.** This Covenant shall be governed by the laws of the State of Washington and, where applicable, the laws of the United States of America.

[signature pages follow]

Grantor:

NOTARY PUBLIC in and for the State of Washington
My Commission Expires

EXHIBIT "E" (RFP Response)

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

ORGANIZATION INFORMATION

Describe applicant type: ☒ Current operator ☐ Other Click or tap here to enter text.

Business Name: Opportunity Council

UBI #: 600 462 233

UEI #: J8DRQDDFBA64

TIN #: 91-0787820

DUNS #: 12115247

Name of Person Completing Application: Adrienne Solenberger, Housing Development Manager

Application Date: 3/7/2023

Business Address, City, Zip: 1111 Cornwall Ave, Bellingham, WA 98225

Proposed Service Location Name (if different from business name): Bellis Fair Family Housing Early Learning Center

Proposed Service Location Address, City, Zip (if different from business address): Parcel B a portion of 29 Bellis Fair Pkwy, Bellingham, WA 98225

Contact Phone: 360-220-7167

Email: Adrienne_solenberger@oppco.org

Provider Type (select all that apply): ☒ Center-based ☒ Nonprofit ☐ For-profit ☐ Public
☐ Outdoor ☒ Licensed ☐ License Exempt ☐ Seeking licensure
☐ Other Click or tap here to enter text.

Initial/Expected licensure date: 10/1/2026

Expiration date of license: 10/1/2031

Has your organization received any notice of findings from the Washington State Department of Children Youth and Families (DCYF) indicating safety or licensure/certificate issues? If so, please provide additional information and how any problems are being addressed. No.

Has your organization received any notice, findings, or penalties from the Washington State Department of Revenue? If so, please provide additional information and how any problems are being addressed. No

Are you also applying for stabilization funds through the Opportunity Council? ☐ Yes ☒ No ☐ Not Sure

Current licensed capacity: 215 across multiple classrooms/buildings

Age range: Three to five years

What are the socioeconomic, racial, and ethnic demographics of the children you currently serve: More than 90% of enrolled children are from households of very low or low income (110% of Federal Poverty Level), i.e. \$30,000/yr. or less for a family of four; or 36% of WA's state median income, i.e. \$41,404 for a family of four. Some children, whose households make more than these maximums may be enrolled if they have categorical eligibility, such as a diagnosed disability, are a child in foster care, etc. By race/ethnicity, in the 2021-22 program year, 58% were identified as white, 4% Asian, 5% Black 5% American Indian/Alaskan Native, and 2% Native Hawaiian/Pacific Islander. 15 percent were identified as being of two or more races. Five percent identified as "Other" than the above categories and 6% were unspecified for other reasons. Across all racial groups listed,

Attachment B – Whatcom Co. RFP #22-52

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

35% identified as being Hispanic/Latino/LatinX. Our enrollment is fairly evenly split between Whatcom's urban and rural areas.

PROJECT INFORMATION – COMMUNITY BENEFIT

Projected licensed capacity after completing proposed project: 289

Age range: Birth to Six

Current days/hours of operation: Monday through Friday 8AM – 4PM

Proposed days/hours of operation: Monday through Friday 6AM – 6PM

Do you limit the number of children in your program receiving Working Connections subsidy? If so, please include your limit. We do not.

How many total children receiving WCCC are served at your site? At present, while in our care, none, because other federal and state resources pay for their participation in licensed classrooms/buildings (e.g. Head Start), however almost every enrolled child would be eligible and some families pursue WCCC for wrap-around care at other nearby sites. The 74 expansion slots will be at least 50% WCCC enrollees.

Amount of Funding Requested: \$944,084

Total Project Budget: \$3,580,960

Total Organization Operating Budget: \$59.6 Million

Total Site/Location Operating Budget: \$1,466,115

Please provide a brief summary of your proposed use of funding (250 words max): Opportunity Council will use the grant to construct a five classroom early learning center serving 54 preschoolers, 12 toddlers, 8 infants and 7 school aged children for before and after school care. It will include a staff lounge, warming kitchen, laundry and management office. The center will be a commercial condominium in the Bellis Fair Family Housing project, which will include affordable housing for 60 families on the upper floors. The project is adjacent to Bellis Fair Mall at Bellis Fair Parkway and Eliza Rd.

Please provide a detailed narrative description of your project, including how it will increase licensed and/or affordable slots: The five classrooms included in this development project will all be new additions to Whatcom County's supply of care. The operational funding will be a blend of available sources in order to offer both free and subsidized care, as well as market-rate care for area households. At least 50% of the child slots will be free or state subsidy eligible. One classroom will cover 8 infant slots, one classroom will serve at least 12 toddlers and the other three will be for three to six year olds primarily, but could offer some before and after school care for older siblings through attendance management to stay within adult:child ratios prescribed by the WAC. In the first years, the three non-infant/toddler classrooms will primarily go up to age 5, but market analysis might lead to an eventual offering of private kindergarten for 5 and 6-year olds to give the development's families and neighbors an option of birth to six coverage for their children before entering the K-12 system, since the closest public school, Cordata, is typically oversubscribed.

What mechanisms (i.e. subsidies, scholarships, sliding scale fees, etc.) will you utilize to serve low-income and/or ALICE (Asset Limited, Income Constrained, Employed) families? The Birth to Three Division of our Early Learning & Family Services Department will pursue federal center-based Early Head Start slots and/or Early ECEAP slots from the State of WA's DCYF. Those slots for low-income households will be free care and early learning and will be spread across the infant and toddler spaces, leaving some capacity for state subsidy-eligible ALICE families or market-rate payers. The preschool classrooms will have a similar mix of regular Head Start or ECEAP slots for three to five-year olds, room for subsidy slots of moderate income households and a limited

Attachment B – Whatcom Co. RFP #22-52

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

number of market-rate slots. This mix is based on community need and considerable research that has shown that mixed-income classrooms lead to better child outcomes for measures such as kindergarten readiness and "executive function," i.e. self-regulation, ability to work in groups/teams, etc.

After completing the proposed project, how many of your total slots will be filled with children receiving WCCC or another affordability mechanism? A minimum of 50% and a good probability of as many as 75-80% will be free or Working Connections Child Care subsidized.

Describe the children in your program and how they and their families have been impacted by the COVID-19 pandemic. How will your proposal address COVID-19 impacts? While families across the income spectrum have been affected in terms of lost income, social isolation and illness-driven absences from education and work, many – not all – of the mostly very low and low-income households we have served for more than 55 years experienced these impacts to a much greater degree. Food insecurity, higher rates of viral infection, a falling behind in typical child development due to lack of child care or classroom exposure, and social-emotional/behavioral/mental health issues have spiked in both children and the households' adults. Child behavioral issues, due to a lack of exposure to peers for sometimes two or more years, have been pervasive in early learning and care settings since 2021 when re-openings of learning environments began. Similarly, stressors on adult relationships due to the isolation and economic pressures caused by the pandemic have taken their toll on the households' children. The pandemic's impacts have joined overall community trends that reveal an increased prevalence of child developmental disabilities. The Single-Entry Access to Services (SEAS) system that our department operates on behalf of Whatcom County and the Whatcom Taking Action initiative, served a record-setting volume of referrals in calendar year 2022 at more than 1200 children. Some 75% of those referrals are for children in the first five years of life. As a result, many households are enduring the dual impacts of diagnosed developmental challenges within one or more of their children AND the impacts of the pandemic.

Who is the target population you hope to serve with these additional funds? We hope to serve a core of households of very low incomes to low income (estimated at 50% minimum meeting those definitions by federal or WA definitions), moderate income families often referred to as ALICE (Asset-Limited, Income-Constrained but Employed) families for whom state subsidy will greatly reduce care costs, and a small percentage of market-rate payers to contribute to meeting the community's overall needs and diversify classrooms per research/best practices. We are also experienced and prepared to serve any linguistic diversity that might be inherent in the service population.

Which costs will these funds pay for? The grant will pay for a portion of design and construction hard costs for the commercial condominium.

Will your proposal meet any of the following high-priority system needs? If so, please provide additional detail for any applicable category.

Provides additional slots for children birth to twenty-four months: It is projected that at least 14 of the new slots at this location will serve children in this age bracket (8 infants up to 12 months of age and at least half or six children in the toddler classroom).

Provides new affordable and/or subsidized slots for children: Over 60 of the proposed 74 child slots will be either free or subsidized.

Targets an underserved area of the County: The Bellis Fair vicinity and the adjacent urban growth area (UGA) are seeing some of the fastest growth in multifamily housing, both affordable and market-rate. Although there are other child care providers in the larger vicinity, the rate of growth of need for child care as the population increases in our target area, which will only be compounded by the multi-phase affordable units being built on our site, begs for more capacity in this area.

Attachment B – Whatcom Co. RFP #22-52

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

Meets the specific and diverse needs of children with special needs including but not limited to: disabilities, neurodivergence, OT/PT needs, mental/behavioral health needs, and other needs: The funders behind the slots that will be free to our customers require that at least 10% of capacity be reserved for children with special needs. Historically, our early learning environments have run with 15 to 16% of slots filled by children needing unique accommodations, either physical or learning strategy/tools. We expect that history to repeat in the slots destined for this location. Children birth to three with Individualized Family Support Plans (IFSP) or children ages three and higher with an Individualized Education Program (IEP), both protected under the federal Individuals with Disabilities Education Act (IDEA) can be co-enrolled in general care/early learning and specialized early intervention programming. That programming includes family resource coordination, in-home or other specialized therapies, such as Occupational Therapy, Speech/Language Therapy and more. We have subcontracts with the WA Center for the Deaf & Hard of Hearing, WA School for the Blind and sign language interpreters as needed to meet a child's accommodations. We also have two behavioral/mental health consultants on retainer, and within our Quality Child Care Division staff, we have infant/toddler mental consultants who work with classroom staff and families to maximize a child's ability to focus on learning, peer relations, and overall executive function.

Emphasizes quality, cultural relevance, and/or wrap around services to better meet the needs of children. This includes, but is not limited to, utilizing culturally-relevant curriculum, integrating mental/behavioral health into programs, training and coaching; communicating with families in their native language; and other services to increase inclusivity and belonging: Diversity, equity and inclusion are pillars of our programs. Our learning environments are stocked with materials, artwork and toys/supplies that reflect the cultures of the children enrolled. We have members of our staff team that represent a range of race/culture/ethnicity and who speak several languages other than English, which is an important support for Dual Language Learners until their English proficiency improves and as an ongoing form of respect for enrolled children's families. We have a primary curriculum (Creative Curriculum) and ancillary curricula that are complete with cultural inclusion aspects and provide a range of professional development trainings to staff to assure that all teams reflect our inclusion values. Throughout our early learning programs' history, comprehensive services in support of the health and well-being of the child and wrap-around family services have been an integral part of service patterns. This can include help in meeting basic needs, linkages and referrals to other quality human services in our community, health screenings and facilitated interventions (medical, dental, behavioral health), family socialization events to limit the isolation that many families can experience even outside a pandemic, and much more. Unique to our programming is an elected Parent Policy Council, which is comprised of parent representatives from all of our service sites. This new site will have its own seats on that council, which helps determine the overall service patterns and direction of our programs and often co-designs some of the socialization events. Transportation to our centers is also provided whenever necessary and we are working to expand this service, especially for working households with no or only one vehicle, to diminish the stress that that can add to the adults' daily routines. We also have other features, like child-of-the-week designations, that permit classmates to learn about the unique cultural backdrop and other features of their peers' upbringing. In short, our programs are always designed to serve the whole child and their family, even though we are acutely focused on brain/child development and school readiness.

Provides non-traditional and/or flexible hours of service: There will be flexibility of hours of service through the center's 10-hours per day open status and year-round service delivery. We expect that some children enrolled in "school day" programming (i.e. 6.75 hours of programming that parallel the elementary school day) will also be served in before and after-school offerings of our sites, while others will arrive and exit only to take advantage of the core program hours. While non-traditional hours (i.e. 2nd or 3rd shift coverage) will not be a mainstay of our offerings other than the few hours of a second shift covered between 3 and 6 p.m., we will regularly evaluate customers' needs and consider adaptations as the center gains more history of operations. We are also interested in building affiliate relationships with nearby licensed family home child care providers,

Attachment B – Whatcom Co. RFP #22-52

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

whose scope and scale are more easily tailored to non-traditional hours of service (nights/weekends) than a large center is.

PROJECT INFORMATION – FEASIBILITY AND LIKELIHOOD OF SUCCESS

What is your planned funding mix for the project and what other funding have you secured to date? What is your plan to secure the remainder of the funding? The Early Learning center will be funded with a combination of Whatcom County funds, City of Bellingham ARPA and other funds (application pending), a State Early Learning Facilities grant (to be applied for this fall), a WA Early Learning Loan fund (WELL) loan, to be applied for when we have the grant funding secured, and capital funding from the federal Head Start and ECEAP programs (to be applied for in 2023). The housing portion of the project also needs to be funded in order for the project to proceed. The housing will be funded with City of Bellingham funding, a federal direct appropriation, a State Housing Trust Fund loan, Low Income Housing Tax Credits, and a private bank loan. The federal direct appropriation is committed. The City of Bellingham funding request is pending, and the remainder of the funding requests will be made this fall.

Please describe your project timeline and any critical milestones. All public funding requests will be made by this fall and committed by January, 2024. The private bank financing for the housing and the WELL loan will be committed by spring, 2024. The financing will be closed by October, 2024. The construction of the core and shell of the building will be completed by April, 2026, and the tenant improvements to the early learning center will be completed by August, 2026. The center will be operational for the 2026-27 school year.

If you are seeking licensure for a new site, please provide a detailed plan and timeline for ensuring success during the licensure process. Detail any steps that have already been taken to begin licensure. Opportunity Council's existing early learning programs are licensed. This site will need its own license, which typically takes 60-90 days after construction completion for review and a site visit. We will meet with State licensing staff during the design phase to make sure the building will meet licensing requirements. We cannot begin the actual licensing process until we have a certificate of occupancy on the building.

Please describe your organizational leadership and project team. What skill and experience do they have implementing projects like this? Opportunity Council is an experienced developer of capital facilities including shelter, affordable housing and early learning centers. The agency currently has three capital projects under way, including the Laurel Forest project, which includes an early learning center, as well as a substance abuse treatment facility and the acquisition and rehabilitation of an existing affordable housing complex. The Opportunity Council has developed one other housing project, the 22 North project, in the past five years. Day to day responsibility for development activities will rest with Adrienne Solenberger, who has 13 years of affordable housing experience. She will be assisted by an experience project management consultant. The agency is contracting with Third Place Design Cooperative to design the early learning center and provide construction administration. Third Place has completed design of 12 early learning centers.

Please detail the team and agency's experience using federal funding and complying with federal requirements, such as procurement regulations. Opportunity Council currently receives funding through a number of federal programs, including HOME, CDBG, CSBG, LIHEAP, SNAP, Weatherization funding, Supportive Housing Program, Continuum of Care funds and funding from the Department of Veterans Affairs. Opportunity Council is experienced in complying with federal funding requirements, including procurement regulations, having been awarded such funding from its inception. Opportunity Council's program and fiscal staff regularly participate in trainings on developments in funding requirements to ensure full compliance with current regulations.

Does your organization receive annual audits? If so, have you received any financial or accountability findings and/or recommendations. Please describe. Yes; additionally, Opportunity Council is required to comply with the Single Audit Act. Opportunity Council's 2021 audit contains an unqualified opinion over the financial

Attachment B – Whatcom Co. RFP #22-52

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

statements. The Auditors opinion also states that the supplemental schedule of state awards and schedule of expenditures of federal awards are fairly stated in relation to the financial statements taken as a whole. The auditors also report on compliance for each major federal program and for the 2021 audit, have determined that OC complied, in all material respects, with the compliance requirements for each of our major federal programs. The auditors also did not report any significant deficiencies or materials in internal control over compliance. The auditors did report a significant deficiency in internal controls over financial reporting as related to the preparation of the schedule of expenditures of federal awards, part of the supplement reports included with our audit. Opportunity Council responded to this finding, implemented a corrective action plan as noted in our audit report, and expect that this will not be a problem in the future. Opportunity Council remains a "low risk auditee" under 2 CFR 200.

Please describe the proposed property including ownership. Do you have site control? Does any lease allow for facility improvements? Landlord approval, if applicable, will be required during the contracting process. The site will be owned by an affiliate of the Opportunity Council. The City of Bellingham has site control on the property, which is being sold by the ownership of Bellis Fair mall. The City intends to assign the site control agreement to the Opportunity Council as soon as the feasibility period on the purchase agreement is completed, probably in April, 2023.

What mechanism have you used to determine project costs and feasibility? Has the project's cost and feasibility been reviewed by a professional contractor? The project cost has been estimated by Dawson Construction, which has been selected as the general contractor for the project, based on schematic design drawings and their experience with other projects.

Please indicate whether an environmental survey has or will be done to determine potential contaminants at the project site. Projects are not required to perform a survey as part of the application process but may be asked to do so if awarded. A Phase 1 Environmental Site Assessment has been completed. The ESA was completed for the whole Bellis Fair mall. There was one environmental condition that applied to the mall property that was identified in the Phase 1, but this condition does not affect our site, which is actually across Bellis Fair Parkway from the mall. We have a letter from our environmental consultant stating that the environmental condition does not affect our site.

Please indicate your timeline and plan to receive all appropriate permits. Please indicate if you have held a pre-application meeting with the relevant City/County permitting department and any information gleaned from that meeting. We have had the required community meeting that is a prerequisite for submitting the Design Review permit application, which will be submitted this month. We will also submit an application for a Contract zoning amendment this month, which is being supported by the City of Bellingham. We expect to apply for a building permit in December, 2023, and receive the permit in September, 2024. We have had multiple meetings with the City planning staff as well as the Parks department and Transportation department, concerning the site plan, permitted access points for the site, and the City's plans to develop pedestrian pathways around our site to create safer connections from the mall to the adjacent neighborhood.

Certification

I understand the terms and conditions of this RFP and certify that the above-named agency/business will comply with all Whatcom County requirements if a contract award is made. All information contained in this application is true and accurate to the best of my knowledge.



EXECUTIVE DIRECTOR

3/7/2023

Authorized Signature and Title

Date

Attachment B – Whatcom Co. RFP #22-52

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

When do you expect tasks to be completed? Please list month or year. Use the "Other" lines or insert items for additional tasks. If your project will involve more than one bid/construction process, insert additional lines for each construction phase. The applicant is responsible for complying with all federal requirements, regardless of whether functions are contracted out.

Tasks	Responsible Staff member or contractor	Start Date	End Date
Procurement of professional services	Adrienne Solenberger, Opportunity Council	2/4/2023	4/1/2023
Obtain site control	Tara Sundin, City of Bellingham	12/27/2022	8/1/2023
Complete environmental assessments	Stratum Group	11/30/2022	11/30/2022
Complete architectural/engineering design	Third Place Design Cooperative	12/15/2022	9/1/2024
Obtain regulatory agency approval (i.e. licensure)	David Webster, Opportunity Council	7/1/2026	9/1/2026
Obtain permits	Third Place Design Cooperative	3/8/2023	9/1/2024
Prepare bid documents/solicit bid	Third Place/Opportunity Council	8/15/2024	9/15/2024
Award construction contract	Opportunity Council	9/15/2024	9/15/2024
Start construction	Dawson Construction	10/1/2024	10/1/2024
Complete construction	Dawson Construction	8/1/2026	8/1/2026
Project in use – occupancy	Opportunity Council	9/1/2026	9/1/2026
Other:			

Whatcom County
Request for Proposals
RFP #22-52

Attachment B: Workplan Form

Construction/Acquisition Project Budget Form Instructions

Provide the total budget of the proposed project, subdivided by activity costs. Request only the level of funding needed to carry out the project. The budget must show all the necessary costs and funding sources to complete the project.

Source: List the allocation of County funds among activity costs in the Source 1 column. Fill in the name of another funding source in each column (as applicable) and list its allocation amongst the activity costs. Consider limiting the number of activity costs and professional services and construction contracts to be funded by the County, since County procurement and financial management requirements are more complicated if County funds are spread across several activity costs.

Funding Status: For each funding source, indicate whether there is a firm funding commitment or, if not, when a firm commitment is expected. You may be asked to provide letters of award or funding commitment from each source.

Project Administration: Enter project administration costs directly related to project implementation and carrying out the project that are not listed under activity costs. Applicants are encouraged to contract with experienced project-managers and build these costs into their budget.

Environmental studies: Enter all costs associated with the need for environmental studies.

Architectural Fees: Enter all costs associated with the use of an architectural firm.

Engineering Fees: Enter the total engineering costs associated with the project.

Sewer Improvements: Enter all costs associated with construction or reconstruction of the sewer system. Include construction contingency costs and taxes. List associated project administrative, architectural or engineering costs on the appropriate activity cost line.

Water Improvements: Enter all costs associated with construction or reconstruction of the water system. Include construction contingency costs and taxes. List associated project administrative, architectural or engineering costs on the appropriate activity cost line.

Private Water/Sewer Side Connections: Enter all costs associated with construction or reconstruction of the water/sewer side connections on private property. Include construction contingency costs and taxes. List associated project administrative, architectural, or engineering costs on the appropriate activity cost line.

Street and Sidewalk Improvements: Enter all costs associated with construction or reconstruction of streets and sidewalks. Include construction contingency costs and taxes. List associated project administrative, architectural, or engineering costs on the appropriate activity cost line.

Community Facility: Enter all costs associated with construction or renovation of the childcare/early learning facility. Include construction contingency costs and taxes. List associated project administrative, architectural or engineering costs on the appropriate activity cost line.

Acquisition: Enter total purchase price and include the appraisal costs in addition to any closing costs associated with the acquisition of property.

Other: List costs for activities not already listed above, such as demolition, etc. to be funded by the County or other sources.

Totals: At the bottom of the respective columns enter a County total and the totals for each funding source. Enter the totals for each activity cost line at the far-right column, and calculate the total project costs. These totals should match the amounts listed on your application.

Whatcom County
Request for Proposals
RFP #22-52
Attachment C: Project Capital Budget

Funding Status	Source 1	Source 2	Source 3	Source 4
Are the sources of funding committed? if not, give a date when commitment expected.	County Funds	☐ Yes ☒ No Name of Source: City of Bellingham 4/30/23	☐ Yes ☐ No Name of Source: WELL Loan 3/1/24	☐ Yes ☐ No Name of Source: Head Start/ECEAP Capital
	Activity Costs			
Project administration (including any project management consulting fees)			40,000	40,000
Environmental studies				60
Architectural fees	164,600			31,861
Engineering fees			2,989	
Sewer improvements	48,419			
Water improvements	48,420			
Private water/sewer side connections				
Street and sidewalk improvements				
Community facility	682,645		783,750	370,742
Acquisition		186,876	5,821	
Financing			87,364	
Permits			34,483	1,250
Insurance			29,456	
Relocation				3,587
Soft Cost Contingency			16,137	2,500
TOTAL	944,084	186,876	1,000,000	450,000

Attachment C – Whatcom Co. RFP #22-52

Whatcom County
Request for Proposals
RFP #22-52

Attachment C: Project Capital Budget

Are the sources of funding committed? If not, give a date when commitment expected.	☐ Yes ☒ No	☐ Yes ☐ No	☐ Yes ☐ No	Totals
	Name of Source: State Early Learning Facilities 12/1/2023	Name of Source:	Name of Source:	
	Activity Costs			
Project administration (including any project management consulting fees)				80,000
Environmental studies				60
Architectural fees	95,580			292,041
Engineering fees				2,989
Sewer improvements				48,419
Water improvements				48,420
Private water/sewer side connections				0
Street and sidewalk improvements				0
Community facility	866,920			2,704,057
Acquisition				192,697
Financing				87,364
Permits	3,750			39,483
Insurance	11,250			40,706
Relocation				3,587
Soft Cost Contingency	22,500			41,137
TOTAL	1,000,000		0	\$3,580,960

Use a second copy of this form if you have more than four funding sources.

Whatcom County
Request for Proposals
RFP #22-52

Attachment D: Operations Budget

Operating Revenues	Current Year	Year 1	Year	Year 3	Year 4
User fees	163,000	171,150	179,708	188,693	198,128
State subsidy payments	330,000	339,900	350,097	360,600	371,418
County revenue	177,600	177,600	177,600	177,600	177,600
Other grant revenue	656,818	676,523	696,818	717,723	739,254
Other operating revenues	138,697	142,858	147,143	151,558	156,105
Total Annual Revenues	1,466,115	1,508,030	1,551,366	1,596,173	1,642,504
Operating Expenses	Current Year	Year 1	Year	Year 3	Year 4
Personnel Costs	970,913	1,000,040	1,030,041	1,060,943	1,092,771
Direct client costs (i.e. food)	170,103	175,207	180,463	185,877	191,453
Insurance	12,000	12,360	12,731	13,113	13,506
Utilities	18,000	18,540	19,096	19,669	20,259
Operating Reserve	29,322	30,202	31,108	32,041	33,003
Travel/Training	3,500	3,605	3,713	3,825	3,939
Equipment/Supplies	88,800	91,464	94,208	97,034	99,945
Marketing and Advertising	1,200	1,236	1,273	1,311	1,351
Facility Costs	66,552	66,552	66,552	66,552	66,552
Repairs	6,000	6,180	6,365	6,556	6,753
Services – Contracts	6,000	6,180	6,365	6,556	6,753
Maintenance Supplies	1,800	1,854	1,910	1,967	2,026
Replacement Reserve	13,333	13,333	13,333	13,333	13,333
Other Expenses (specify)	29,322	30,202	31,108	32,041	33,003
Total Annual Operating Expenses	1,416,846	1,456,955	1,498,267	1,540,818	1,584,646
NET INCOME (Income minus expenses)	49,269	51,076	53,099	55,355	57,858

If a proposed project will increase or expand operations, include the current budget in the first column, and show the changes with this project, starting in Year 1.

Monitoring Report Summary

Date of Review: March 2022

Program:	ELAFS – Early Support for Infants and Toddlers (ESIT)
OC's Role:	Service Provider
Review Type:	Desk Audit
Reviewing Entity:	Department of Children, Youth, and Families (DCYF)
Reviewers:	Catherine DeBock, DCYF Fiscal Reviewer
Review Methods:	Financial and Procedural Data, GL detail, and sampling of transactions.
What is Being Reviewed and Why?	Review of the 7/1/2020-6/30/2021 ESIT contract as part of compliance monitoring.
Review Results:	No exceptions.
Summary of Findings and Recommended Corrective Action	N/A
Expected Follow Up Dates:	None required.
OC Staff Responsible:	David Grote, David Webster



STATE OF WASHINGTON
DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

1500 Jefferson Street, SE • P.O. Box 40975 • Olympia WA 98504-0975

March 24, 2022

David Webster
Opportunity Council
1111 Cornwall Ave, Suite 200
Bellingham, WA 98225

Dear David Webster:

Thank you for your successful partnership in the completion of the Department of Children, Youth, and Families (DCYF) fiscal review of your program in accordance with the requirements outlined in the DCYF Early Support for Infants and Toddlers (ESIT) Contract #21-1158-03.

Our fiscal review covering the contract period of September 1, 2020 through June 30, 2021 entailed monitoring compliance with certain elements of your ESIT contract, as noted on the enclosed spreadsheet. We identified no exceptions during our review.

We appreciated working with David Grote during our compliance review. If you have any questions regarding this review, please contact me at (360) 628-3992 or catherine.debock@dcyf.wa.gov. If you need guidance and/or technical assistance, please contact Jessica Baffoe, DCYF ESIT Quality Improvement Specialist, at (360) 522-2776 or jessica.baffoe@dcyf.wa.gov.

Sincerely,

Catherine DeBock

Catherine DeBock
DCYF Fiscal Reviewer

CC:
Chris Morrison, DCYF Fiscal Integrity Unit Manager
Rachel Reyes, DCYF Fiscal Review Manager
Stefanie Niemela, DCYF Audit Liaison
Noel Parrish, ESIT Sustainability Manager
Jessica Baffoe, ESIT Quality Improvement Specialist
David Grote, OC Accounting Manager
Choice Meyer, OC Chief Accountant



Contract Coversheet

Contract: C2201299
Amendment: N/A

Supplier	Department	Originator
Felix Reznick	Plan and Com Dev	Heather Aven

Classification	Project Name	Project Manager
Misc General	PSA - Portion of Tract B Bellis Fair SP	

Original Amount	Maximum Amount	Total Amendment Change	Current Amendment Amount
\$0.00			

Type	Structure	Agreement Type
NF - Non-Financial	ST - Standard	NONFIN - Non-Financial Contract

Termination Date	Amended Termination Date	Compliance Type
		Insurance not required

Retainage %	Retainage Comments

Renewal Date	Renewal Notes

Additional Contract Notes:

Please Rush

Contacts:

Tara Sundin - tsundin@cob.org

Printed:12/27/2022

REAL ESTATE PURCHASE AND SALE AGREEMENT

This REAL ESTATE PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2022, between the CITY OF BELLINGHAM, a first-class municipal corporation ("Buyer") and Bellis Fair Mall Territories LLC ("Seller").

1. Real Property. Seller agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller, subject to the terms and conditions set forth in this Agreement, the real property located in Whatcom County, Washington, more particularly described in Exhibit A attached hereto and made a part hereof, together with all right, title and interest in and to all rights licenses, privileges, reversions and easements pertinent to the real property, including without limitation, all minerals, oil, gas and other hydrocarbon substances on and under the real property as well as all development rights, air rights, water rights, water and water stock relating to the real property and any other easements rights of way or appurtenances used in connection with the beneficial use and enjoyment of the real property (collectively, the "Property").

2. Purchase Price. The total purchase price for the Property (the "Purchase Price") will be twenty-six U.S. Dollars (\$26.00) per square foot, subject to a professional appraiser determining fair market value. Buyer, at its sole discretion, shall hire and incur the costs of the appraisal. Seller agrees to sell the property at \$26.00 per square foot so long as the property is appraised between \$26.00 and \$30.00 per square foot. The total square footage of the property is estimated to be 2.76 to 3.0 acres. Buyer shall inform Seller no later than December 31, 2022, of the appraised value and shall provide a full report. Should the Property appraise for less than \$26 a square foot Buyer shall have ten (10) business days to accept a price at \$26 a square foot or this Agreement shall be deemed terminated. The square footage to be purchased will be determined based upon a recorded survey as part of the land division process. The Purchase Price will be paid to Seller in cash through escrow at Closing, as defined in Section 7.

3. Title to Property.

3.1 Conveyance. At Closing Seller shall convey to Buyer marketable fee simple title to the Property by duly executed and acknowledged statutory warranty deed (the "Deed"), subject only to those encumbrances that Buyer approves pursuant to Section 3.3 below (the "Permitted Encumbrances").

3.2 Preliminary Commitment. Upon execution of this Agreement, Seller authorizes Buyer to order a preliminary commitment for an owner's standard coverage policy of title insurance (or, at Buyer's election, an owner's extended coverage policy of title insurance) in the amount of the Purchase Price to be issued by the Title Company and accompanied by copies of all documents referred to in the commitment (the "Preliminary Commitment").

3.3 Condition of Title. Buyer shall advise Seller by written notice what encumbrances to title, if any, are disapproved by Buyer ("Disapproved Encumbrances") within thirty (30) days of the execution of this Agreement. All monetary encumbrances other than non-delinquent ad valorem property taxes will be deemed to be disapproved. Seller will have ten (10) days after receipt of Buyer's notice to give Buyer notice that (i) Seller will remove Disapproved Encumbrances, or (ii) Seller elects not to remove Disapproved Encumbrances. If Seller fails to give Buyer notice before the expiration of the ten (10) day period, Seller will be deemed to have elected to remove Disapproved Encumbrances. Notwithstanding anything to the contrary in this Agreement, Seller shall remove from title on or before the Closing Date all monetary encumbrances other than those approved by Buyer. If Seller elects not to remove any Disapproved

Encumbrances, Buyer will have ten (10) business days to notify Seller of Buyer's election either to proceed with the purchase and take the Property subject to those encumbrances, or to terminate this Agreement. If Buyer elects to terminate this Agreement pursuant to this section, the escrow will be terminated, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise expressly provided for in this Agreement. If this Agreement is terminated through no fault of Seller, then Buyer shall pay any costs of terminating the escrow and any cancellation fee for the Preliminary Commitment.

3.4 Title Policy. Seller shall cause the Title Company to issue to Buyer at Closing a standard coverage owner's policy of title insurance insuring Buyer's title to the Property in the full amount of the Purchase Price subject only to the Permitted Encumbrances (the "Title Policy"). The Title Policy must be dated as of the Closing Date.

3.5 Special Use Designation. If the Property currently has a special use tax designation (such as forest land or open space) as described by Chapter 84.33 and Chapter 84.34 of the Revised Code of Washington, any compensating taxes or fees that become due as a result of this transaction will be paid by Seller at Closing.

4. Conditions to Closing.

4.1 City Council Approval. This Agreement, and the transaction contemplated hereby, must be duly approved by the Bellingham City Council prior to the end of the Feasibility Period. The Bellingham City Council's decision to approve or reject the transaction contemplated herein may occur before the conclusion of the Feasibility Study Period defined in Section 4.2, below. The Bellingham City Council's decision is wholly discretionary. If Bellingham City Council approval is not obtained, this Agreement will terminate, and all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise expressly provided for in this Agreement.

4.2 Feasibility Study. Buyer will have until 120 days from execution of this Agreement (the "Feasibility Study Period") to conduct a review of the Property and satisfy itself with respect to the condition of and other matters related to the Property and its suitability for Buyer's intended use (the "Feasibility Study"). The Feasibility Study may include all inspections and studies Buyer deems reasonably necessary or desirable. Buyer and Buyer's agents, representatives, consultants, architects and engineers will have the right, from time to time, from and after the date of this Agreement to enter onto the Property and make borings, drive test piles and conduct any other reasonable tests and studies that may be necessary or desirable to ascertain the condition and suitability of the Property for Buyer's intended use. Such tests and inspections are to be performed in a manner not disruptive to the operation of the Property. Buyer shall protect, defend and indemnify Seller from and against any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall cause any such liens or encumbrances to be promptly released. Buyer shall not, however, be liable for any claims or diminution in value arising or resulting from (i) Buyer's discovery of any pre-existing condition (including, without limitation, the existence of Hazardous Materials as defined in Section 6.4) in, on, under or about the Property, or (ii) any exacerbation of a pre-existing condition in, on, under or about the Property, except to the extent, if any, said exacerbation results from the willful or negligent act or omission of Buyer, its agents, contractors or employees.

4.3 Non-Suitability. Buyer will have the right to terminate this Agreement if, in Buyer's good faith judgment, the Property is not suitable for Buyer's intended use. Buyer's

right to terminate must be exercised by delivering written notice of its election to Seller on or before the expiration of the Feasibility Study Period. In the event Buyer does not complete the purchase, Buyer shall return the Property as near as is practicable to its original condition. If Buyer terminates this Agreement pursuant to this section, this Agreement will terminate, and Seller and Buyer will be released from all further obligation or liability hereunder, except as otherwise specified by this Agreement and except for Buyer's obligations to indemnify Seller under Section 4.2. Failure by Buyer to notify Seller in writing of any matters affecting the suitability of the Property, whether or not an inspection has been carried out, shall deem Buyer to have waived this contingency.

4.4 Buyer shall provide preliminary drawings and a description of future uses in order to assist Seller in diligently pursuing obtaining the removal of the Property from the REA as required in Section 5.5 below.

5. Condition of Property and Necessary Acts.

5.1 Seller's Covenant to Operate and Maintain. Seller shall maintain, repair, manage and operate the Property in a businesslike manner in accordance with Seller's prior practices. Seller agrees that it will not damage, dissipate, nor commit waste on any portion of the Property between the date of acceptance of this Agreement and the date of Closing. Seller shall surrender the Property to Buyer in as good condition (normal wear and tear excepted) as exists on the date of this Agreement.

5.2 Inspections. Buyer agrees that it will rely on its own inspections and evaluations of the Property, with the exception of Seller's representations and warranties listed in Section 6, below, and of written documentation, including, but not limited to any disclosures required by law, provided to it by Seller, to determine the suitability of the Property for Buyer's intended use.

5.3 Land Division. Seller shall undertake the land division steps necessary to create the Property, such as a Short Plat.

5.4 Amendment to the Planned Contract. Seller will undertake an amendment to the existing Amendment to Planned Contract which restricts the use of Tract B to parking and landscaping. This change may require a SEPA process. ~~closing~~

5.5 Removal of Property from Construction, Operation and Reciprocal Easement Agreement (the "REA"). Seller shall obtain and record a modification of the REA releasing the Property within one hundred (100) days of execution of this Agreement. Seller shall initiate this process within two weeks of execution of this Agreement. In the event Seller has diligently pursued the removal but has not been able to complete the process due solely to the non-cooperation of the REA parties, Buyer agrees to one thirty-day extension.

6. Seller's Representations and Warranties. Seller represents and warrants to Buyer as follows:

6.1 Claims or Litigation. To the best of Seller's knowledge, there is no litigation pending or threatened against Seller (or any basis for any claim) that arises out of the ownership of the Property and that might materially and/or detrimentally affect (i) the use or operation of the Property for Buyer's intended use, or (ii) the ability of Seller to perform its obligations under this Agreement, or (iii) the value of the Property.

6.2 Defaults. Seller has received no notice of any default or breach by Seller under any covenants, conditions, restrictions, rights of way or easements that may affect Seller in respect to the Property or may affect the Property or any portion thereof and no such default or breach now exists.

6.3 Organization. Seller is an LLC. This Agreement and all documents executed by Seller that are to be delivered to Buyer at Closing are, or at the time of Closing will be, (i) duly authorized, executed and delivered by Seller, (ii) legal, valid and binding obligations of Seller, (iii) sufficient to convey title (if they purport to do so), and (iv) in compliance with all provisions of all agreements and judicial orders to which Seller is a party or to which Seller or all or any portion of the Property is subject.

6.4 Hazardous Substances. Seller has no actual knowledge of the release of or presence of any hazardous materials on, in from or onto the Property ("hazardous materials" meaning any hazardous or toxic substance, petroleum product or wastes that are regulated or subject to cleanup authority under any state, federal or local statute, regulation or ordinance).

7. Closing. This transaction will be closed in escrow by the Title Company acting as escrow agent ("Escrow Agent"). The Closing will be held at the office of the Title Company or electronically on or before 30 days following the conclusion of the Feasibility Period or as soon thereafter as reasonably practicable (the "Closing Date"). At Seller's request, Closing may be extended for three thirty-day periods if: (1) Seller has not completed the land division process outlined in Section 5.3 and/or; (2) Seller has not completed the second Amendment to the Planned Contract removing the parking and landscaping restriction as outlined in Section 5.4 above. If Closing does not occur on or before the Closing Date, or any later date mutually agreed to in writing by Seller and Buyer, Escrow Agent will immediately terminate the escrow, and return all documents to the party that deposited them. When notified by Escrow Agent, Buyer and Seller will deposit with Escrow Agent without delay all instruments and moneys required to complete the transaction in accordance with this Agreement. "Closing," for the purpose of this Agreement, is defined as the date that all documents are executed, the sale proceeds are available for disbursement to the Seller, and legal title passes to the Buyer.

8. Closing Costs and Prorations. Seller shall pay the premium for a standard coverage owner's policy of title insurance in the full amount of the Purchase Price, State of Washington real estate excise taxes applicable to the sale, and one-half of the Escrow Agent's escrow fee. Buyer shall pay the additional premium, if any, attributable to an extended coverage owner's policy of title insurance (if elected by Buyer at Buyer's sole discretion) and any endorsements required by Buyer, the cost of recording the deed, and one-half of the Escrow Agent's escrow fee. Property taxes and assessments for the current year, water and other utility charges, if any, shall be prorated as of the Closing Date unless otherwise agreed. Buyer is a property tax exempt organization pursuant to R.C.W. 84.36.010, and therefore Escrow Agent is directed, to the extent possible, to apply to Whatcom County for a change in tax status for the Property, so that property taxes do not have to be collected from Buyer at Closing.

9. Casualty Loss. Seller shall promptly notify Buyer of any event prior to the Closing Date which causes damage to or destruction of any portion of the Property. If Buyer and Seller cannot come to an agreement regarding any such damage to or destruction of the Property, including the settlement of any insurance claims, then Buyer and Seller will each have the right to terminate this Agreement by giving written notice of termination to the other party within twenty (20) days after receipt of actual notice of such casualty loss. Upon exercise of such termination election by either party, this Agreement will terminate.

10. Possession. Seller shall deliver possession of the Property to Buyer on the Closing Date. Seller shall remove any and all personal property or debris including personal property of existing

or previous tenants from the Property on or before the Closing Date, unless specifically authorized in writing by Buyer.

11. Events of Default. In the event Buyer fails, without legal excuse or authorization under this Agreement, to complete the purchase of the Property, then that portion of the Deposit which does not exceed five percent (5%) of the Purchase Price shall be forfeited to Seller as the sole and exclusive remedy available to Seller for such failure. In the event Seller fails, without legal excuse or authorization under this Agreement, to complete the sale of the Property, Buyer may pursue any remedies available to it in law or equity, including specific performance.

12. Notices. Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service, or given by mail. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Buyer: City of Bellingham, Planning & Community Development
Attn: Tara Sundin, tsundin@cob.org
210 Lottie Street
Bellingham, WA 98225

With a copy to: City of Bellingham, Legal Department
Attn: City Attorney
210 Lottie Street
Bellingham, WA 98225

Seller: Felix Reznick
4th Dimension Properties
1909 Tyler Street, Suite 403
Hollywood, FL 33020
freznick@4d-properties.com

Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail.

13. Counterparts. This Agreement may be executed in any number of counterparts, each of which counterpart when so executed shall have the same force and effect as if that party had signed all other counterparts.

14. Brokers and Finders. If Seller is represented by an agent/broker in this transaction, Seller is responsible for any finder's fees or commissions to be paid to Seller's agent/broker. In the event Seller's broker or agent makes a claim for a commission or finder's fee based upon the transaction contemplated by this Agreement, Seller shall indemnify and hold harmless the City from said claim and all liabilities, costs and expenses related thereto, including reasonable attorneys' fees, which may be incurred by such other party in connection with such claim. This indemnity shall survive the Closing of this transaction.

15. Amendments. This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

16. Continuation and Survival of Representations and Warranties. All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the time of Closing, will be deemed to be material and will survive the execution and delivery of this Agreement and the delivery of the Deed and transfer of title. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.

17. Governing Law. This Agreement will be governed and construed in accordance with the laws of the State of Washington without recourse to any principles of Conflicts of Laws.

18. Attorney Fees. If either party fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not prevailing in the dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under this Agreement, including without limitation, court costs and reasonable attorney fees incurred in connection with any federal, state or bankruptcy proceeding.

19. Time of the Essence. Time is of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

20. FIRPTA. The Escrow Agent is instructed to prepare a certification or equivalent that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act ("FIRPTA"), and Seller agrees to sign this certification. If Seller is a "foreign person" as the same is defined by FIRPTA, and this transaction is not otherwise exempt from FIRPTA, Escrow Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

21. Waiver. Neither Seller's nor Buyer's waiver of the breach of any covenant or obligation under this Agreement will be construed as a waiver of the breach of any other covenants or obligations or as a waiver of a subsequent breach of the same covenant or obligation.

22. Nonmerger. The terms and provisions of this Agreement, including without limitation, all indemnification obligations, will not merge in, but will survive, the Closing of the transaction contemplated under the Agreement.

23. Assignment. Buyer shall be able to assign this Agreement without the Seller's prior written consent.

24. Negotiation and Construction. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

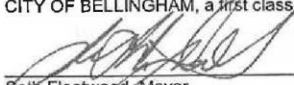
25. Additional Acts. Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by any party hereto, the parties agree to perform, execute and/or deliver, or cause to be performed, executed and/or delivered, any and all such further acts, deeds and assurances, which may reasonably be required to effect the Agreement contemplated herein.

26. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the purchase and sale of the Property, and supersedes all prior agreements and understandings, oral or written, between the parties relating to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

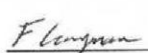
BUYER:

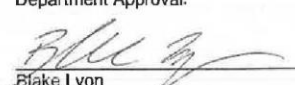
CITY OF BELLINGHAM, a first class municipal corporation

 12/21/22
Seth Fleetwood, Mayor

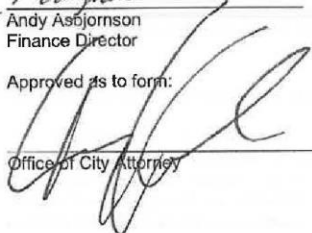
Attest:

Department Approval:


for Andy Asbjornson
Finance Director


Blake Lyon
Planning & Community Development Director

Approved as to form:


Office of City Attorney

SELLER:


Felix Reznick, Bellis Fair Mall Territories LLC

EXHIBIT A

LEGAL DESCRIPTION

Tract B, Corrected Bellis Fair Mall Short Plat (Parcel #: 380213314470)
Auditor File #: 1603409. Area outlined in red is subject property.

DRAFT LEGAL FOR PORTION OF TRACT "B" BELLIS FAIR MALL SHORT PLAT – to be finalized by Short Plat

From the NE corner of Section 13 Township 38N Range 2E Willamette Meridian; thence westerly along the northerly line of said section to the quarter corner between the NE and NW quarters of said section; thence southerly along the boundary between the NE and NW quarters of said section to the northerly line of the Barnes Road right of way; thence easterly along the northerly line of Barnes Road a distance of 30 feet more or less to its intersection with the easterly line of Eliza Drive/Allans Road, this being the Point of Beginning. From the Point of Beginning thence easterly along the northerly line of Barnes Road to the easterly terminus of said right of way; thence continuing easterly on the same bearing to the intersection with the westerly line of Bellis Fair Parkway; thence following said westerly line of Bellis Fair Parkway northwest, north, and northeast to its intersection with Eliza Avenue; thence westerly along the southerly line of Eliza Avenue to its intersection with the easterly line of Eliza Drive/Allans Road; thence southerly along the easterly line of Eliza Drive/Allans Road to the Point of Beginning.





2092186

PROVIDER ID NUMBER



513688

SSPS PROVIDER NUMBER

WASHINGTON STATE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

Child Care Center Non-Expiring

In compliance with the laws of the State of Washington in meeting the licensing requirements of the Department of Children, Youth, and Families (DCYF), a child care license is hereby granted to the Child Care Center facility named below. For information on the status of this license, call 1-866-482-4325 (or 1-866-48-check).

Lynden ECEAP
Lynden ECEAP

is licensed to maintain a Child Care Center located at 8461 Benson Rd., city of Lynden, zip code 98264, county of Whatcom in the State of Washington for the care of children between the ages of 3 years - 5 years but not to exceed 18 children.

Classroom Name	Group Size	Classroom Name	Group Size	Classroom Name	Group Size
ECEAP (Pre-School Age)	18				

This license is issued on January 9, 2023 and expires on July 7, 2023. Dated: January 9, 2023 at Bellingham, Washington.
Anniversary date: January 9

DCYF Licensor Signature

GLORIA TRINIDAD

(360) 685-8703
Telephone Number

DCYF Licensing Administrator Signature

Judy Bunkelman

Notice: This license is valid only for use by the individual(s) to whom it is issued and at the location described.
Issued by Authority of Chapter 43.216 Revised Code of Washington.
DCYF 15-986 Child Care Center Initial License - 07/2020





Planning and Community Development Department
City of Bellingham

March 6, 2023

RE: Letter of Commitment to Assign a Purchase & Sale Agreement to the Opportunity Council

To Whom it May Concern:

For the past year, the City of Bellingham (City) has been working in partnership with the Opportunity Council to secure land for a development project to construct affordable housing for families with children and a childcare facility.

In December of 2022, the City entered into a purchase agreement with 4th Dimension Properties to purchase a three-acre development parcel. The parcel is at the corner of Eliza Avenue and Bellis Fair Parkway. The City negotiated an assignment clause and has every intention on assigning the agreement to the Opportunity Council prior to closing.

The City has provided a \$60,000 pre-development loan to the Opportunity Council to conduct due-diligence on this site and the City will be assisting the Opportunity Council with purchase and development of the property.

Please do not hesitate to reach out to me to discuss this partnership in more detail at tsundin@cob.org.

ts

Tara Sundin
Community & Economic Development Manager

CC: Greg Winter, Opportunity Council
Samya Lutz, City of Bellingham

Planning
210 Lottie Street
Bellingham, WA 98225
Phone: (360) 778-8300
Fax: (360) 778-8302
TTY: (360) 778-8382
Email: planning@cob.org
www.cob.org/planning

Community Development
210 Lottie Street
Bellingham, WA 98225
Phone: (360) 778-8300
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www.cob.org/planning

Building and Development Services
210 Lottie Street
Bellingham, WA 98225
Phone: (360) 778-8300
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TTY: (360) 778-8382
Email: permits@cob.org
www.cob.org/permits