

**WHATCOM COUNTY**  
**CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:  
202310022

Originating Department:	85 Health and Community Services
Division/Program: (i.e. Dept. Division and Program)	8550 Human Services / 855040 Housing
Contract or Grant Administrator:	Ann Beck
Contractor's / Agency Name:	State Street Creamery, LLC

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

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

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

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

Is this contract the result of a RFP or Bid process?	Contract Cost Center:	1388502
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):

Is this agreement excluded from E-Verify?	No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>
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

If YES, indicate exclusion(s) below:

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

Contract Amount:(sum of original contract amount and any prior amendments):	Council approval required for; all property leases, contracts or bid awards <b>exceeding \$40,000</b> , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, <b>except when</b> :
\$ 50,000	
This Amendment Amount:	
\$	
Total Amended Amount:	
\$	<ol style="list-style-type: none"> <li>Exercising an option contained in a contract previously approved by the council.</li> <li>Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.</li> <li>Bid or award is for supplies.</li> <li>Equipment is included in Exhibit "B" of the Budget Ordinance</li> <li>Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.</li> </ol>

Summary of Scope: This is a lease agreement for commercial space at 810 N State Street in Bellingham, intended for use as a winter weather shelter.

Term of Contract:	4.5 Months	Expiration Date:	03/15/2024
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Contract Routing:	1. Prepared by:	JT	Date:	10/13/2023
	2. Health Budget Approval	KR/JS	Date:	10/13/2023
	3. Attorney signoff:	RB	Date:	10/23/2023
	4. AS Finance reviewed:	A Martin	Date:	10/23/2023
	5. IT reviewed (if IT related):		Date:	
	6. Contractor signed:		Date:	
	7. Executive Contract Review:		Date:	10/26/2023
	8. Council approved (if necessary):	<b>AB2023-702</b>	Date:	10/24/2023
	9. Executive signed:		Date:	10/26/2023
	10. Original to Council:		Date:	



# Memorandum

**TO:** Satpal Sidhu, County Executive  
**FROM:** Erika Lautenbach, Director  
**RE:** Lease for Severe Weather Shelter Space for the 2023-2024 Winter Season  
**DATE:** **OCTOBER 25, 2023**

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Attached is a contract between Whatcom County and State Street Creamery, LLC for your review and signature.

▪ **Background and Purpose**

Whatcom County Health & Community Services has been tasked with working to create additional shelter options for unhoused community members, when temperatures drop to 28 degrees or below in Bellingham. The Homeless Strategies Workgroup created a set of Guiding Assumptions to activate this additional option, which is what will be used during the 2023-24 winter season.

After the second year of no respondents to a Request for Proposals for community partners and the local faith community to operate a severe weather shelter during the winter season, County staff with Health & Community Services continued planning to operate a space using county staff and resources. There are currently temporary on call staff being hired as well as volunteers being coordinated with the Whatcom Volunteer Center.

One of the larger obstacles has been finding a space to host the shelter. Locating a viable space to host 40-45 individuals when temperatures dropped to life threatening levels, with the option for a short-term lease, and no concern for damages is challenging, but one has been located.

The attached 4.5-month lease is for a space that is close to downtown, on a bus line, has viable heating sources and is available with a short-term rental. Since the space was already planning to be demolished for future building, it is available without a damage deposit and is open to use as a temporary severe weather shelter.

Council is asked to approve the lease and costs associated with this rental. ARPA funds, from the designated homeless services category, are being used for this project.

▪ **Funding Amount and Source**

Funding for this agreement is not to exceed \$50,000 and is provided by American Rescue Plan Act (ARPA – ALN #21.027). Funding is included in the 2023 budget and Council authorization is required for all real property lease agreements.

Please contact Ann Beck, Community Health & Human Services Manager at 360-778-6055 ([ABeck@co.whatcom.wa.us](mailto:ABeck@co.whatcom.wa.us)) if you have any questions.



# COMMERCIAL LEASE AGREEMENT

**THE PARTIES.** This Lease Agreement agreed on 10/26/2023, is between:

The **Lessor** is a business entity known as State Street Creamery, LLC with a mailing address of 222 Grand Ave Suite F, Bellingham, Washington, 98225, hereinafter referred to as the "Lessor."

**AND**

The **Lessee** is an entity known as Whatcom County with a mailing address of 311 Grand Avenue, Bellingham, Washington, 98225 hereinafter referred to as the "Lessee."

The Lessor and Lessee hereby agree as follows:

**DESCRIPTION OF LEASED PREMISES.** The Lessor agrees to lease to the Lessee the following described 3,500 square feet (SF) of commercial space located at 810 N. State Street, Bellingham WA 98225

Additional Description: The leased space southernmost portion of the existing building at 820 N State Street ("Property"). This specific space, formerly known as the Threshold Documents space, is located at 810 N State Street and hereinafter referred to as the "Premises".

**USE OF LEASED PREMISES.** The Lessor is leasing the Premises to the Lessee and the Lessee is hereby agreeing to lease the Premises for 4.5 months beginning on November 1, 2023 and ending on March 15, 2024.

Any change in use or purpose of the Premises other than as described above shall be upon prior written consent of Lessor only otherwise the Lessee will be considered in default of this Lease Agreement.

**EXCLUSIVE USE.** The Lessee shall not hold exclusive rights on the Property. The Lessor shall hold the rights to lease other areas of the Property to any same or like use as the Lessee.

**TERM OF LEASE.** This Lease shall commence November 1, 2023 and expire at Midnight on March 15, 2024 ("Initial Term").

**RENT AMOUNT.** Payment shall be made by the Lessee to the Lessor in the amount of \$11,000 *per month* for the Initial Term of this Lease Agreement hereinafter referred to as the "Rent."

**RENT PAYMENT.** The Rent shall be paid under the following instructions:

Rent shall be paid by the Lessee to the Lessor on a per month basis with payment due no later than the 1st of every month.

Rent shall be paid by the Lessee to the Lessor's aforementioned mailing address.

**CONDITION OF PREMISES:**

The premises shall be in a condition suited for the purpose of the lease. Lessee and lessor shall agree on the conditions of suitability prior to execution of this lease. Lessee may inspect the premises prior to commencement of the lease to confirm suitability has been achieved.

**LATE FEE.** The Lessor shall charge a late payment fee if rent is not paid on time in the following amount:

The Lessee shall be charged a late fee in the amount of 2.5% of the monthly rent amount per occurrence if payment is not made after the 1st day after it is due.

**OPTION TO RENEW.** NONE

**EXPENSES.** In accordance with a Net (NNN) Lease the responsibility of the expenses shall be attributed to the following:

It is the intention of the Parties, and they hereby agree, that in addition to the Rent, the Lessee shall be obligated to pay the following expenses to the Lessor on a per month basis:

**OPERATING EXPENSES.** The Lessor shall have no obligation to provide any services, perform any acts or pay any expenses, charges, obligations or costs of any kind whatsoever with respect to the Premises, and Lessee hereby agrees to pay one-hundred percent (100%) of any and all Operating Expenses as hereafter defined for the entire term of the Lease and any renewals thereof in accordance with specific provisions hereinafter set forth. The term "Operating Expenses" shall include all costs to Lessor of operating and maintaining the Premises, and shall

include, without limitation, real estate, and personal property taxes and assessments, management fee(s), heating, air conditioning, HVAC, electricity, water, waste disposal, sewage, operating materials and supplies, service agreements and charges, lawn care, snow removal, restriping, repairs, repaving, cleaning and custodial, security, insurance, the cost of contesting the validity or applicability of any governmental acts which may affect operating expenses, and all other direct operating costs of operating and maintaining the Premises and related parking areas, unless expressly excluded from operating expenses.

**INSURANCE.** The Lessee shall provide and maintain personal liability and property damage insurance. The Lessee shall provide the Lessor with a copy of such insurance certification or policy prior to the effective date of this Lease Agreement.

**PAYMENT OF OPERATING EXPENSES**

The Lessee will pay the Lessor for operating expenses on a reimbursement basis. The Lessor will provide documentation of paid invoices for operating expenses for reimbursement by the Lessee.

Operating expenses for reimbursement by the Lessee will be provided by the Lessor to the Lessee by April 30, 2024.

**UTILITIES.** The Lessee shall be responsible for any and all utilities to the Premises in relation to the total property area.

**SECURITY DEPOSIT.** A security deposit shall not be required in advance upon the signing of this Lease.

**FURNISHINGS.** The Lessor will not provide any furnishings to the Lessee under this Lease. The Lessee may temporarily install additional portable restrooms outside of the building, on the back patio space. Maintenance and upkeep will be the responsibility of the lessee and they will be removed prior to the lease terminating.

**PARKING.** Parking shall be provided to the Lessee in a shared manner provided on the Premises. There is no set number of parking spaces provided to the Lessee.

There shall be no fee charged to the Lessee for the use of the Parking Space(s).

**LEASEHOLD IMPROVEMENTS:**

Nothing in the Lease shall be construed to authorize the Lessee or any other person acting for the Lessee to encumber the rents of the Premises or the interest of the Lessee in the Premises or any person under and through whom the Lessee has acquired its interest in the Premises with a

mechanic's lien or any other type of encumbrance. Under no circumstance shall the Lessee be construed to be the agent, employee or representative of Lessor. In the event a lien is placed against the Premises, through actions of the Lessee, Lessee will promptly pay the same or bond against the same and take steps immediately to have such lien removed. If the Lessee fails to have the Lien removed, the Lessor shall take steps to remove the lien and the Lessee shall pay Lessor for all expenses related to the Lien and removal thereof and shall be in default of this Lease.

**LICENSES AND PERMITS.** A copy of any and all local, state or federal permits acquired by the Lessee which are required for the use of the Premises shall be kept on-site at all times and shall be readily accessible and produced to the Lessor and/or their agents or any local, state, or federal officials upon demand.

**MAINTENANCE.** The Lessee shall be responsible for all repairs and maintenance on the Premises due to normal wear and tear on the Premises. Particularly items which need immediate attention including but not limited to, the replacement of light bulbs, normal repair and cleaning of windows, cleaning of bathrooms, clearing of toilets, etc. The Lessee shall properly maintain the premises in a good, safe and clean condition and shall properly and promptly remove all rubbish and hazardous wastes and see that the same are properly disposed of according to all local, state or federal laws, rules regulations or ordinances.

In the event the Premises is damaged as a result of any neglect or negligence of Lessee, his employees, agents, business invitees, or any independent contractors serving the Lessee or in any way as a result of Lessee's use and occupancy of the premises, then the Lessee shall be primarily responsible for seeing that the proper claims are placed with the Lessee's insurance company, or the damaging party's insurance company, and shall furthermore be responsible for seeing that the building is safeguarded with respect to said damage and that all proper notices with respect to said damage, are made in a timely fashion, including notice to the Lessor, and the party or parties causing said damage.

**INSURANCE.** In the event Lessee shall fail to obtain insurance required hereunder and fails to maintain the same in force continuously during the term, Lessor may, but shall not be required to, obtain the same and charge the Lessee for same as additional rent. Furthermore, Lessee agrees not to keep upon the premises any articles or goods which may be prohibited by the standard form of fire insurance policy, and in the event the insurance rates applicable to fire and extended coverage covering the premises shall be increased by reason of any use of the premises made by Lessee, then Lessee shall pay to Lessor, upon demand, such increase in insurance premium as shall be caused by said use or Lessee's proportionate share of any such increase.

**SUBLET/ASSIGNMENT.** The Lessee may not transfer or assign this Lease, or any right or interest hereunder or sublet said leased premises or any part thereof.

**DAMAGE TO LEASED PREMISES.** In the event the building housing the leased premises shall be destroyed or damaged as a result of any fire or other casualty which is not the result of the intentional acts or neglect of Lessee and which precludes or adversely affects the Lessee's occupancy of the leased premises, then in every such cause, the rent herein set forth shall be abated or adjusted according to the extent to which the Premises have been rendered unfit for use and occupation by the Lessee and until the demised premises have been put in a condition at the expense of the Lessor, at least to the extent of the value and as nearly as possible to the condition of the premises existing immediately prior to such damage. It is understood, however, in the event of total or substantial destruction to the Premises that in no event shall the Lessor's obligation to restore, replace or rebuild exceed an amount equal to the sum of the insurance proceeds available for reconstruction with respect to said damage.

The Lessee shall, during the term of this Lease, and in the renewal thereof, at its sole expense, keep the interior of the leased premises in as good a condition and repair as it is at the date of this Lease, reasonable wear and use excepted. This obligation would include the obligation to replace any plate glass damaged as a result of the neglect or acts of Lessee or her guests or invitees. Furthermore, the Lessee shall not knowingly commit nor permit to be committed any act or thing contrary to the rules and regulations prescribed from time to time by any federal, state or local authorities and shall expressly not be allowed to keep or maintain any hazardous waste materials or contaminates on the premises. Lessee shall also be responsible for the cost, if any, which would be incurred to bring her contemplated operation and business activity into compliance with any law or regulation of a federal, state or local authority.

**HAZARDOUS MATERIALS LAWS.** Shall mean any and all federal, state, or local laws, ordinances, rules, decrees, orders, regulations, or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under, or about the Premises, the Building, or the Property, or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Hazardous Materials Transportation Act, any other law or legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing.

**LESSEE'S DEFAULT AND POSSESSION.** In the event that the Lessee shall fail to pay said rent and expenses as set forth herein, or any part thereof, when the same are due and payable, or shall otherwise be in default of any other terms of said Lease for a period of more than 30 days, after receiving notice of said default, then the parties hereto expressly agree and covenant that the Lessor may declare the Lease terminated and may immediately re-enter said premises and take possession of the same together with any of Lessee's personal property, equipment or fixtures left on the premises which items may be held by the Lessor as security for the Lessee's eventual payment and/or satisfaction of rental defaults or other defaults of Lessee under the Lease. It is further agreed, that if the Lessee is in default, that the Lessor shall be entitled to take

any and all action to protect its interest in the personal property and equipment, to prevent the unauthorized removal of said property or equipment which threatened action would be deemed to constitute irreparable harm and injury to the Lessor in violation of its security interest in said items of personal property. Furthermore, in the event of default, the Lessor may expressly undertake all reasonable preparations and efforts to release the Premises including, but not limited to, the removal of all inventory, equipment or leasehold improvements of the Lessee's, at the Lessee's expense, without the need to first procure an order of any court to do so, although obligated in the interim to undertake reasonable steps and procedures to safeguard the value of Lessee's property, including the storage of the same, under reasonable terms and conditions at Lessee's expense, and, in addition, it is understood that the Lessor may sue the Lessee for any damages or past rents due and owing and may undertake all and additional legal remedies then available.

**LESSOR'S DEFAULT.** The Lessee may send written notice to the Lessor stating duties or obligations that have not been fulfilled under the full performance of this Lease Agreement. If said duties or obligations have not been cured within 15 days from receiving such notice, unless the Lessor needs to more time to cure or remedy such issue in accordance with standard industry protocol, then the Lessor shall be in default of this Lease Agreement.

If the Lessor should be in default the Lessee shall have the option to terminate this Lease Agreement and be held harmless against any of its terms or obligations.

The Code of Federal Regulations Title 2 (A) Chapter 2, Part 200 Appendix II (B) requires that:

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

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.

Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of



work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

**DISPUTES.** If any dispute should arise in relation to this Lease Agreement the Lessor and Lessee shall first negotiate amongst themselves in "good faith." Afterwards, if the dispute is not resolved then the Lessor and Lessee shall seek mediation in accordance with the laws in the State of Washington. If the Lessor and Lessee fail to resolve the dispute through mediation then the parties shall be allowed to submit their cases in accordance with the local court system.

**CERTIFICATION REGARDING FEDERAL DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED**

**TRANSACTIONS.** If applicable, the Lessor further certifies, by executing this Agreement, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Lessor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Lessor 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 Lessor 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](http://WWW.SAM.GOV). Lessor shall immediately notify Whatcom County if, during the term of this Agreement, the Lessor becomes debarred.

**SUBORDINATION AND ATTORNMENT.** Upon request of the Lessor, Lessee will subordinate its rights hereunder to the lien of any mortgage now or hereafter in force against the property or any portion thereof, and to all advances made or hereafter to be made upon the security thereof, and to any ground or underlying lease of the property provided, however, that in such case the holder of such mortgage, or the Lessor under such Lease shall agree that this Lease shall not be divested or in any way affected by foreclosure, or other default proceedings under said mortgage, obligation secured thereby, or Lease, so long as the Lessee shall not be in default under the terms of this Lease. Lessee agrees that this Lease shall remain in full force and effect notwithstanding any such default proceedings under said mortgage or obligation secured thereby.

Lessee shall, in the event of the sale or assignment of Lessor's interest in the building of which the Premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Lessor covering the Premises, attorn to the purchaser and recognize such purchaser as Lessor under this Lease.

**USAGE BY LESSEE.** Lessee shall comply with all rules, regulations and laws of any governmental authority with respect to use and occupancy. Lessee shall not conduct or permit to be conducted upon the premises any business or permit any act which is contrary to or in violation of any law, rules or regulations and requirements that may be imposed by any authority or any insurance company with which the premises is insured, nor will the Lessee allow the premises to be used in any way which will invalidate or be in conflict with any insurance policies applicable to the building. In no event shall explosives or extra hazardous materials be taken onto or retained on the premises. Furthermore, Lessee shall not install or use any equipment that will cause undue interference with the peaceable and quiet enjoyment of the premises by other Lessees of the building.

**SIGNAGE.** Lessee shall not place on any exterior door, wall or window of the premises any sign or advertising matter without Lessor's prior written consent and the approval of the local municipality. Thereafter, Lessee agrees to maintain such sign or advertising matter as first approved by Lessor in good condition and repair. Furthermore, Lessee shall conform to any uniform reasonable sign plan or policy that the Lessor may introduce with respect to the building. Upon vacating the premises, Lessee agrees to remove all signs and to repair all damages caused or resulting from such removal.

**AMERICANS WITH DISABILITY ACT.** Per 42 U.S. Code § 12183 if the Lessee is using the Premises as a public accommodation (e.g. restaurants, shopping centers, office buildings) or there are more than 15 employees the Premises must provide accommodations and access to persons with disabilities that is equal or similar to that available to the general public. Owners, operators, lessors, and lessees of commercial properties are all responsible for ADA compliance. If the Premises is not in compliance with the Americans with Disability Act any modifications or construction will be the responsibility of the Lessor.

**RIGHT OF ENTRY.** It is agreed and understood that the Lessor and its agents shall have the complete and unencumbered right of entry to the Premises at any time or times for purposes of inspecting or showing the Premises and for the purpose of making any necessary repairs to the building or equipment as may be required of the Lessor under the terms of this Lease or as may be deemed necessary with respect to the inspection, maintenance or repair of the building. In accordance with State and local laws, the Lessor shall have the right to enter the Premises without the consent of the Lessee in the event of an emergency.

**HOLDOVER PERIOD.** Should the Lessee remain in possession of the Premises after the cancellation, expiration or sooner termination of the Lease, or any renewal thereof, without the execution of a new Lease or addendum, such holding over in the absence of a written agreement to the contrary shall be deemed to have created and be construed to be a tenancy from month to month with the Rent to be due and payable in the same amount as the previous month, terminable upon thirty 30 days' notice by either party.

