

<b>WHATCOM COUNTY CONTRACT INFORMATION SHEET</b>		Whatcom County Contract No. 202012017
Originating Department:		85 Health
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing Program
Contract or Grant Administrator:		Barbara Johnson-Vinna
Contractor's / Agency Name:		Opportunity Council
Is this a New Contract? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If not, is this an Amendment or Renewal to an Existing Contract? If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	Yes <input type="checkbox"/> No <input type="checkbox"/>
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? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s):	CFDA#: 14.231
Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s):	202008014
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):	Sole Source Contract Cost Center: 122200 / 122300 / 124112 / 114 / 121100 / 122400 / 122800
Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below:		
<input type="checkbox"/> Professional services agreement for certified/licensed professional.		
<input type="checkbox"/> Contract work is for less than \$100,000.		<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than 120 days.		<input type="checkbox"/> Work related subcontract less than \$25,000.
<input type="checkbox"/> Interlocal Agreement (between Governments).		<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.
Contract Amount:(sum of original contract amount and any prior amendments): \$ 796,701		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> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
This Amendment Amount: \$		
Total Amended Amount: \$		
Summary of Scope: This contract provides funding for the Whatcom Homeless Service Center (WHSC), a centralized point of entry for homeless prevention and re-housing services for Whatcom County residents.		
Term of Contract:	6 months	Expiration Date: 06/30/2021
Contract Routing:	1. Prepared by: JT	Date: 09/30/2020
	2. Health Budget Approval: JG	Date: 11/18/20
	3. Attorney signoff: RB	Date: 11/20/2020
	4. AS Finance reviewed: M Caldwell	Date: 12/01/2020
	5. IT reviewed (if IT related):	Date:
	6. Contractor approved: <input checked="" type="checkbox"/>	Date:
	7. Submitted to Exec.: JT	Date: 12/09/2020
	8. Council approved (if necessary): AB2020-576	Date: 12/08/2020
	9. Executive signed: <input checked="" type="checkbox"/>	Date: 12-10-2020
	10. Original to Council: <input checked="" type="checkbox"/>	Date: 12-16-2020

**WHATCOM COUNTY**  
Health Department



Erika Lautenbach, Director  
Greg Stern, M.D., Health Officer

**MEMORANDUM**

**TO:** Satpal Sidhu, County Executive  
**FROM:** Erika Lautenbach, Director  
**RE:** Opportunity Council – Whatcom Homeless Service Center Contract  
**DATE:** December 9, 2020

---

Attached is a contract between Whatcom County and Opportunity Council for your review and signature.

▪ **Background and Purpose**

The Whatcom Homeless Service Center (WHSC) provides coordinated entry for the homeless housing system. The WHSC makes referrals to partner agencies for housing case management services, cultivates and maintains relationships with local landlords, and serves as liaison for homeless housing activities to the network of service providers and other community stakeholders.

▪ **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$796,701 for the 01/01/2021 through 06/30/2021 contract period, is provided by the WA State Department of Commerce Consolidated Homeless Grant, the federal Emergency Solutions Grant-COVID (CFDA #14.231), HB 2060 Low-Income Housing Funds, local document recording fees, and the Veteran's Assistance Fund. These funds will be included in the 2021 budget. Council approval is required as funding exceeds \$40,000.

▪ **Differences from Previous Contract**

This is a new contract; however, funding for these services has been provided through previous contracts between Whatcom County and the Opportunity Council since 2008. This contract adds federal Emergency Solutions Grant-COVID funding for rental assistance and personnel to the contract that is currently in place (Whatcom County Contract #201611024). ESG-CV funding is intended to be used to prevent, prepare for, and respond to the Coronavirus pandemic, among individuals and families who are homeless or receiving homeless assistance. The Contractor maintains its determination as a sole source contractor for the services provided in this contract.

Please contact Kathleen Roy at extension #6007 if you have any questions regarding this agreement.

Encl.

509 Girard Street  
Bellingham, WA 98225-4005  
360.778.6000 | FAX 360.778.6001  
f WhatcomCountyHealth  
t WhatcomCoHealth



Whatcom County  
**HEALTH**  
Department

1500 North State Street  
Bellingham, WA 98225-4551  
360.778.6100 | FAX 360.778.6101  
[www.whatcomcounty.us/health](http://www.whatcomcounty.us/health)

Whatcom County Contract No.  
202012017

**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 21,
- Exhibit B (Compensation), pp. 22 to 23,
- Exhibit C (Certificate of Insurance), p. 24,
- Exhibit D (Business Associate Agreement), pp. 25 to 31,
- Exhibit E (Special Terms & Conditions of Commerce Grants), pp. 32 to 35,
- Exhibit F (Certification Regarding Lobbying).

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 1<sup>st</sup> day of January, 2021, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30<sup>th</sup> day of June, 2021.

The general purpose or objective of this Agreement is to **operate the Whatcom Homeless Service Center**, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$796,701. 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.

**IN WITNESS WHEREOF**, the parties have executed this Agreement this 10<sup>th</sup> day of December, 2020.

**CONTRACTOR:**

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.

**Opportunity Council**

DocuSigned by:  
Greg Winter 12/10/2020  
5591420154704A0  
Greg Winter, Executive Director

**WHATCOM COUNTY:  
Recommended for Approval:**

DocuSigned by:  
*Anne Deacon* 12/9/2020  
67ECDB4AAE70461  
Anne Deacon, Human Services Manager Date

DocuSigned by:  
*Erika Lautenbach* 12/9/2020  
955C851A30374BD  
Erika Lautenbach, Director Date

**Approved as to form:**  
DocuSigned by:  
*Royce Buckingham* 12/9/2020  
1EE5908B9542404  
Royce Buckingham, Prosecuting Attorney Date

**Approved:**  
Accepted for Whatcom County:  
DocuSigned by:  
*Satpal Sidhu* 12/10/2020  
7373A1F2A59A4FD  
By: Satpal Singh Sidhu, Whatcom County Executive

**CONTRACTOR INFORMATION:**

Opportunity Council  
Greg Winter, Executive Director  
1111 Cornwall Avenue  
Bellingham, WA 98225



## GENERAL CONDITIONS

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

0.1 Scope of Services:

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

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

10.1 Term:

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

10.2 Extension:

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

11.1 Termination for Default:

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

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

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

20.1 Accounting and Payment for Contractor Services:

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

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

21.1 Taxes:

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

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

22.1 Withholding Payment:

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

23.1 Labor Standards:

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

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

30.1 Independent Contractor:

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

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

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to

inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

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

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

31.2 Patent/Copyright Infringement:

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

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

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

32.1 Confidentiality:

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

33.1 Right to Review:

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

34.1 Insurance

The Contractor shall, 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 Contractor, 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 Contractor 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 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 Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

**3. Additional Insurance Requirements and Provisions**

- 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 Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor shall 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 Contractor'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 Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees 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 Contractor 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 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 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 maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor 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 Contractor's 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 sole negligence of the County.

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

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

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

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

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

**35.1 Non-Discrimination in Employment:**

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, 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, age, marital status, disability, 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, 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, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; 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; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

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:

Barbara Johnson-Vinna, Program Specialist  
Whatcom County Health Department  
509 Girard Street  
Bellingham, WA 98225  
360-778-6046  
[BJJohnso@co.whatcom.wa.us](mailto:BJJohnso@co.whatcom.wa.us)

37.2 Notice:

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

To: Whatcom County Health Department  
Attn: Barbara Johnson-Vinna  
509 Girard Street  
Bellingham, WA 98225



360-778-6046  
[BJJohnso@co.whatcom.wa.us](mailto:BJJohnso@co.whatcom.wa.us)

To: Opportunity Council  
Attn: Greg Winter  
1111 Cornwall Avenue  
Bellingham, WA 98225  
[greg\\_winter@oppco.org](mailto: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](http://www.uscis.gov)

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

**40.1 Modifications:**

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

**40.2 Contractor Commitments, Warranties and Representations:**

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

**41.1 Severability:**

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

**41.2 Waiver:**

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

**42.1 Disputes:**

**a. General:**

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

**b. Notice of Potential Claims:**

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

**c. Detailed Claim:**

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

d. **Arbitration:**

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

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

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

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

43.1 **Venue and Choice of Law:**

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

44.1 **Survival:**

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

45.1 **Entire Agreement:**

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

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

**I. Background**

According to the annual Point in Time Count of homeless adults conducted in January 2020, 707 people in Whatcom County were homeless. Throughout the year, hundreds more face the prospect of losing their homes. The Whatcom Homeless Service Center (WHSC) was established in 2008 to serve as a centralized point of entry for homelessness prevention and re-housing services for Whatcom County residents. The WHSC implements programs and services identified in Whatcom County's Plan to End Homelessness. The WHSC authorizes and coordinates service delivery among partner agencies.

The WHSC is modeled upon evidence-based approaches to homelessness diversion, permanent supportive housing and rapid re-housing (RRH). WHSC housing services work to shift the focus from reliance upon emergency shelters and costly institutional facilities in meeting the needs of those experiencing or at risk of homelessness to diversion and permanent housing. By serving as a centralized coordinating system of access to homeless services and by transitioning homeless individuals and families as quickly as possible to permanent housing, WHSC will improve outcomes for homeless individuals and families and ensure more efficient use of public resources.

WHSC programs include both rental assistance and case management components. WHSC staff manages the Housing Pool list, authorizes and distributes rent subsidies to local landlords on behalf of participating clients, makes referrals to partner agencies for housing case management services, manages the Homeless Management Information Services (HMIS) data collection and reporting requirements, cultivates and maintains relationships with local landlords, and serves as liaison for homeless housing activities to the network of service providers and other community stakeholders.

Services will be provided to low-income and/or homeless individuals and households residing in Whatcom County. Individuals and households served must meet the eligibility requirements of the program funding sources as further referenced in Section IV. – Program Requirements.

**II. Definitions**

Diversion	Diversion can be the first response to resolving a homelessness episode by focusing on re-housing without a family entering a longer-term housing program. Diversion starts with problem-solving conversations to identify a household's own strengths and resources, and services are tailored to meet each family's most critical needs to quickly move into housing. Diversion services can include short-term/one-time financial support (i.e., deposit assistance, flex funding, etc.).
Housing Pool	Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
HMIS	Washington's Homeless Management Information Services – A database used by housing service providers to collect and manage data gathered during the course of providing housing assistance to homeless people or households at risk of losing their housing.
Partner Agencies	Agencies that contract with Whatcom County for the delivery of housing case management services, in connection with the WHSC.
Permanent Supportive Housing Population	Chronically homeless individuals/households with significant barriers to permanent housing; will receive deep rent subsidies and intensive housing case management. Chronically Homeless Families (CHF) have one head of household that meets the definition of chronic homelessness (as stated in CHG Guidelines), and one or more dependents defined as minor children, disabled dependents, or full time students. Household income may not exceed 50% of area median gross income as defined by HUD.
ESG-CV Prevention	An intervention providing financial assistance including rent, utilities, and case management, for households at imminent risk of or at-risk of, homelessness.
Rapid Re-housing (RRH)	An intervention in which families and individuals experiencing homelessness are rapidly connected to permanent housing through a tailored package of assistance that may include the use of time-limited financial assistance including rent and utilities, and targeted supportive services including case management.

ESG-CV Rapid Rehousing and Prevention Other Financial Assistance	Inclusive of: rental application fees charge by the owner to all applicants; security deposits; last month's rent; moving costs; utility deposits; utility payments; landlord and volunteer incentives.
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1) centralized coordinated system of access (2) re-housing of those who become homeless (3) supportive services promoting housing stability and self-sufficiency, and (4) data management and tracking information for people receiving homeless housing services in Whatcom County and according to the Washington State Department of Commerce HIMIS data collection requirements. WHSC works in conjunction with Partner Agencies to operate all activities necessary to operate as a system.

**III. Statement of Work**

The Contractor will be responsible for programmatic and administrative services associated with the operation of the Whatcom Homeless Service Center. Administrative and programmatic services include all activities necessary to operate the WHSC as set forth in Sections 1 and 2, below:

**1. Administrative Responsibilities**

The Contractor will:

- A. Provide all Human Resource and administrative services to WHSC employees (e.g., payroll, office supplies and equipment, space rental, IT support, etc.).
- B. Perform all disbursement, accounting, financial management, and reporting functions necessary to manage the funds allocated to WHSC operations. Contractor will maintain a strong internal control system over rental subsidy disbursements to assure funds are used as intended by this contract. Contractor will maintain written policies and procedures describing how these transactions are processed.
- C. Support WHSC in the management of the HMIS, providing troubleshooting and technical assistance, as needed.
- D. Maintain all client financial and eligibility documentation as described/referenced in Exhibit E.
- E. Maintain all financial documentation as required in Exhibits B and E.
- F. Ensure that the processes and internal controls are operating as planned and make policy adjustments, as needed.
- G. Conduct program evaluation as directed by the Whatcom County Health Department to ensure WHSC programs are meeting the Whatcom County Plan to End Homelessness and subsequent Local Plan Updates.
- H. Send staff to trainings, conferences, and technical assistance events related to carrying out the functions of WHSC and the goals of Whatcom County's Plan to End Homelessness and subsequent Local Plan Updates.

**2. Programmatic Services**

The Contractor will:

- A. Manage a coordinated, centralized homeless housing intake system working collaboratively with Opportunity Council's Community Service Division and Northwest Youth Services intake staff.
- B. Maintain a Housing Pool, which includes prioritizing households for services according to need and available resources and managing a wait list.

- C. Determine and document client eligibility for WHSC rent subsidies and case management services based on funding source requirements.
- D. Refer eligible clients to partner agencies for housing case management services.
- E. Administer rental assistance – authorize and disburse subsidies based on housing assessment and determination of need and eligibility. Authorize and disburse emergency assistance per procedures as outlined in the WHSC Policies and Procedures Manual.
- F. Develop the local permanent housing inventory component of the homeless housing system – Search out new housing stock, cultivate and maintain relationships with participating landlords; provide housing search assistance to partner agencies as needed; work to create innovative housing models using best and promising practices as identified by the National Alliance to End Homelessness or other nationally recognized homeless housing organization.
- G. Manage the community-wide HMIS data system in compliance with the standards set forth by the Washington Department of Commerce.
- H. Provide guidance to the partner agency staff to ensure effective operations of the WHSC system; keeping partner agencies updated in policies and procedures, HMIS requirements, research and best practices related to homeless housing, specific program requirements, and confidentiality laws.
- I. Provide leadership to community stakeholders regarding activities focused on homelessness and housing stability.
- J. Compile and keep up-to-date WHSC Policies and Procedures Manual consistent with the Washington State Department of Commerce Consolidated Homeless Grant and the Emergency Solutions Grant-CV.
- K. Chair Whatcom County Coalition to End Homelessness meetings and sponsored activities in partnership with Whatcom County Health Department.
- L. Complete the Whatcom County Coalition to End Homelessness Annual Report (Point In Time Count Report). This annual report shall be completed and ready for distribution no later than June 1. An exception to this will be made in extenuating circumstances when the annual Point in Time Count is not required by the WA State Department of Commerce.

#### IV. Program Requirements

**Under the terms of this contract, the Contractor will:**

- A. Comply with all Washington State Department of Commerce Consolidated Homeless Grant requirements, policies and procedures in the Consolidated Homeless Grant Guidelines including periodic updates to the Guidelines which can be accessed at: <http://www.commerce.wa.gov/serving-communities/homelessness/consolidated-homeless-grant/>
- B. Comply with all of the Department of Housing and Urban Development (HUD) coordinated entry requirements as per the HUD Notice Establishing Additional Requirements for a Continuum of Care Centralized or Coordinated Assessment System regarding the development and implementation of coordinated entry. This Notice, under the authority of 24 CFR 578.7(a)(8), establishes new requirements that Continuums of Care (CoC) and recipients of CoC Program and Emergency Solutions Grant (ESG) Program funding must meet and relate to development and use of a coordinated entry system. This Notice can be accessed at: <https://www.hudexchange.info/resource/5208/notice-establishing-additional-requirements-for-a-continuum-of-care-centralized-or-coordinated-assessment-system/>
- C. Comply with relevant State of Washington, Department of Commerce Emergency Solutions COVID-19 Grant guidelines, including periodic updates to the guidelines which can be accessed at: <https://deptofcommerce.app.box.com/s/s2w7o65zm4buhz2bk7t0n3femanl7tml> and

<https://www.commerce.wa.gov/serving-communities/homelessness/emergency-solutions-grant/>

- D. Commit to ending homelessness in Whatcom County by:
- i. Prioritizing unsheltered homeless households for services (as per CHG Guidelines)
  - ii. Assessing each household's housing needs and facilitating housing stability with the goal of obtaining or maintaining a permanent housing (as per CHG Guidelines)
  - iii. Employing a progressive engagement service model (as per CHG Guidelines)
  - iv. Prioritizing households that are literally homeless when using diversion rent assistance
- E. Comply with eligibility requirements for serving veterans as set forth in Whatcom County Code 2.150 and 2.152, and RCW 73.08.005 and incorporated into this contract by reference. Contractor shall determine eligibility based on Items A and B of WCC 2.150.025 and shall not have utilization of Item C for determining veteran eligibility. The point of contact for the Veteran's Assistance Fund is:
- Elizabeth Harmon-Craig, Veterans Specialist  
Whatcom County Health Department  
360-778-6050  
[EHarmonC@co.whatcom.wa.us](mailto:EHarmonC@co.whatcom.wa.us)
- F. Comply with Special Conditions of Commerce Grants incorporated herein as Exhibit E.
- G. Comply with Business Associate Agreement incorporated herein as Exhibit D.
- H. Comply with state confidentiality laws and regulations.
- I. Ensure that all costs incurred comply with CHG Guidelines as specified in Section IV.(A.) and IV.(C.) above and Exhibit E.
- J. Commit to reporting complete quality data that is timely, truthful and accurate (as per CHG Guidelines and HMIS User Agreement).
- K. Consequences of non-compliance with CHG and ESG-CV Guidelines as per the WA State Department of Commerce:
- i. If Commerce determines that a Grantee is failing to comply with Guidelines, Terms and Conditions, Commerce will notify Grantee that Grantee will receive technical assistance and be required to respond to a corrective action plan to address and remedy the non-compliance.
  - ii. If the Grantee is still out of compliance after the technical assistance, Commerce may move the Grantee into a probationary period with a second corrective action plan and may reduce the grant total by 20%.
  - iii. If the Grantee remains out of compliance after the probation period, Commerce may terminate the grant per the General Terms and Conditions TERMINATION FOR CAUSE.

**V. Program Outcomes**

The following are the expected outcomes of WHSC in conjunction with its partner agencies. These outcomes are for a calendar year period. The WHSC must ensure rental subsidies are available to support the expected numbers of households served as follows:

1. Re-Housing
  - a. At least 150 new households that have become homeless receive short term rent subsidies and case management.
  - b. Fewer than 15% of re-housing households will re-enter homelessness one year after stable exit from the program.
2. Permanent Supportive Housing Population



- a. At least 62 households receive housing subsidies and case management.
    - i. Two units will be from Opportunity Council owned housing units.
  - b. At least two to three chronically homeless (CH) families with children (FWC) will receive housing subsidies funded by a special category of CHG funding designated specifically for permanent supportive housing for CH FWC. Case management for these families will be provided by the Opportunity Council Community Services Program.
  - c. At least 85% retain their housing for six months.
3. Emergency Shelter
- a. At least 50 households will receive emergency shelter assistance.
  - b. At least 50% of those households are placed in permanent housing after receiving shelter services.
4. Veterans
- a. At least 110 Veterans will receive housing subsidies and case management support. These outcomes will be achieved by leveraging additional funding resources.
  - b. Fewer than 15% of Veterans served will re-enter homelessness one year after stable exit from the program.

**VI. Reporting Requirements**

1. The Contractor shall submit two quarterly reports in formats approved by the County showing the Contractor's progress toward achieving the outcomes identified above. Quarterly reports are due on April 30<sup>th</sup>, July 31<sup>st</sup>, October 31<sup>st</sup>, and January 31<sup>st</sup>.

The quarterly fund reports will include:

- A. Re-Housing:
  - i. # of households that have received short term rent subsidies and case management this quarter and year to date
  - ii. # of households who re-enter homelessness after stably exiting from re-housing services
  - iii. # of households that are Veterans
  - iv. # and % of households who re-enter homelessness within one year after stably exiting from re-housing services
- B. Permanent Supportive Housing Assistance
  - i. # of households receiving housing subsidies and case management this quarter and year to date
  - ii. # of units will be from Opportunity Council owned housing units
  - iii. # and % who retain their housing for six months
- C. Permanent Supportive Housing for Chronically Homeless Families with Children
  - i. # of households receiving housing subsidies and case management this quarter and year to date
  - ii. # and % who retain their housing for six months
  - iii. # of households who re-entered homelessness after receiving PSH for CH FWC subsidies
- D. Emergency Shelter
  - i. # of households who received emergency shelter assistance this quarter and year to date
  - ii. # and % of households who received emergency shelter were placed in permanent housing
- E. Veterans



- i. # of Veterans who received housing assistance this quarter and year to date
- ii. # of Veterans who re-enter homelessness one year after stably exiting the program
- iii. # of honorably discharged Veterans with at least 180 days of service provided housing assistance
- iv. # of honorably discharged Veterans with less than 180 days of service provided housing assistance
- v. # of general or under-honorably discharged Veterans with at least 180 days of service provided housing assistance

2. The quarterly coordinated entry reports will include the following measures and targets:

- A. Number of households (HHs) added to Housing Pool (HP): Annual Target 600
- B. Number of households (HHs) added to Housing Pool (HP) this quarter:
- C. Number of HHs removed from HP due to successful project referral: Annual Target 450
- D. Number of HHs removed from HP due to inactivity: Annual Target 150
- E. Of all HHs removed from HP over reporting quarter, the percent that accepted a project referral: Annual Target 75%
- F. Number of partner agency referral requests made for households that included minors: Annual Target 150
- G. Number of partner agency referral requests made for households that did not include minors: Annual Target 200
- H. Number of partner agency referral requests made during this quarter (total): Annual Target 350
- I. Mean number of days to complete referral requests for households that include minors: 3
- J. Median number of days to complete referral requests for households that include minors: 1
- K. Mean number of days to fill referral for households that do not include minors: 4
- L. Median number of days to fill referral for households that do not include minors: 1
- M. Number of new staff trained to conduct intake assessments: 20
- N. Number of multi-agency housing partner meetings to improve function of local homeless/housing system with participation from WHSC staff: 36
- O. Number of community stakeholder meetings with participation from WHSC staff: 36
- P. Amount of rental assistance money dispersed on behalf of partner agency's low-income households: \$700,000
- Q. Number of motel stays for homeless households coordinated by WHSC staff: 30
- R. Dates and descriptions of community or partner meetings with significant input from WHSC staff

Additionally, projects falling under specific intervention types and funded by the Consolidated Homeless Grant (CHG) will be expected to meet or make progress meeting the System Performance Measures and benchmarks as required by the Washington State Department of Commerce. System-wide performance measures and benchmarks specific to intervention type (HMIS Project type) are provided on the CHG System Performance Measures Chart on our website at: [http://www.whatcomcounty.us/910/Housing\\_Program](http://www.whatcomcounty.us/910/Housing_Program). Changes to the CHG System-wide Mandatory Performance Measures may be made without contract amendment. In the event of an update, the County will provide email notification with a link to the current chart on the County's website. CHG Grantees must meet or demonstrate progress towards established performance measure targets by meeting the indicated benchmarks. Targeted Prevention performance measures are exempted from the Department of Commerce's "Consequences of Non-Compliance" listed in IV.(K.) above wherein "Grantee" refers to the County being the CHG recipient.

**EXHIBIT "B"  
(COMPENSATION)**

I. **Budget and Source of Funding:** The source of funding for this contract, in an amount not to exceed \$796,701, is HB 2060, local document recording fees, Washington State Department of Commerce Consolidated Homeless and Emergency Solutions COVID-19 (CFDA 14.231) Grants, and the Veterans Fund. COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract period (01/01/21 – 06/30/21) is as follows:

<b>Document Recording Fees, Veteran's and Consolidated Homeless Grant Funding</b>			
<b>Line Item</b>	<b>Documentation Required with Invoice</b>	<b>Budget</b>	
Project Manager	Expanded GL report for the period	\$18,696	
HMIS Coordinator		\$12,875	
Housing Retention Manager		\$20,236.50	
Housing Resource Coordinator		\$34,428.50	
50% Fringe Benefits Rate	Expanded GL based on federally approved fringe rate	\$50,118	
Direct Program Space Costs	Expanded GL Report for the period	\$4,900	
Direct Program Supplies, Telephone, Postage and Printing		\$2,700	
Travel & Training	Ground transportation, coach airfare, and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, and a brief description of purpose. Receipts for registration fees or other documentation of professional training expenses. Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates ( <a href="http://www.gsa.gov">www.gsa.gov</a> ), specific to location. Receipts for meals are not required. For mileage include name of traveler, dates, start & end point, and purpose. Receipts required for transportation costs, registration fees, etc. Lodging & meal costs follow federal guidelines ( <a href="http://www.gsa.gov">www.gsa.gov</a> ).	\$1,000	
Rental Assistance	Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment	\$85,623	
Rental Assistance – Veteran's funds		33,660	
<b>Document Recording Fees, Veteran's Fund &amp; CHG Subtotal:</b>		<b>\$264,237</b>	
<b>ESG COVID-19 Funding</b>			
<b>RRH &amp; Prevention Rental Assistance:</b>			
Rental assistance, rental arrears, late fees	Expanded GL Report for the period plus documentation including client ID, payee, purpose and amount of payment.	\$310,000	
<b>RRH &amp; Prevention Other Financial Assistance (excludes volunteer incentives):</b>			
Rent fees, security deposits, last month's rent		\$40,000	
Moving costs		\$10,000	
Utility deposits & payments		\$40,000	
Landlord incentives		\$10,000	
<b>Total RRH &amp; Prevention Other Financial Assistance</b>		\$100,000	
<b>Housing Stability Case Management:</b>			
Case Manager		\$6,667	
50% Fringe Benefit Rate		\$3,333	
<b>Total Housing Stability Case Management</b>		\$10,000	
<b>HMIS Coordination:</b>			
HMIS Coordinator	\$2,667		
50% Fringe Benefit Rate	\$1,333		
<b>Total HMIS Coordination</b>		\$4,000	
<b>Emergency Shelter Operations:</b>			
Motel Vouchers		\$29,853	
<b>ESG COVID-19 Funding Subtotal</b>		<b>\$453,853</b>	

<b>2060 funding</b>		
Emergency Shelter Motel Assistance	Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment.	\$11,066
<b>2060 Funding Subtotal:</b>		<b>\$11,066</b>
<b>Indirect and Admin. Expenses</b>		
DRF & CHG Funding (12%)		\$29,857
2060 Admin (12%)		\$1,328
ESG-CV Funding (Admin. 7%)		\$31,770
Veteran's Fund (Admin. 12%)		\$4,590
<b>TOTAL BUDGET:</b>		<b>\$796,701</b>

\*\* During this contract period, a minimum of 36% of Rental Assistance – CHG Funds - must be paid out to for-profit or nonprofit private landlords, as required by the Washington Department of Commerce.

All allocated direct costs must be based on approved cost allocation plan.

Changes to the line item budget that exceed 10% of the line item amount must be approved in writing by the County. Indirect and fringe benefit cost rates shall not the current federally approved rates.

**II. Invoicing**

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15<sup>th</sup> of the month following the month of service. Invoices submitted for payment must include the items identified in the table above. Send invoice-related communication to Barbara Johnson-Vinna.
2. The Contractor shall submit the following monthly deliverables on time with truthful, accurate information:
  - a. 2019-2021 Report from HMIS included with the Invoice (section 2.3.3.1 of the CHG Guidelines)
3. The Contractor shall submit invoices to (include contract/PO #) [HL-BusinessOffice@co.whatcom.wa.us](mailto:HL-BusinessOffice@co.whatcom.wa.us).
4. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.  
  
This is not research and development.
5. 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.**
6. 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 "C"**  
**(INSURANCE)**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/29/2020

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> Hub International Northwest LLC 110 Unity St. Bellingham WA 98225	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 360-647-9000      FAX (A/C, No): 360-734-8496 E-MAIL ADDRESS: now.bellinghaminfo@hubinternational.com														
<b>INSURED</b> The Opportunity Council 1111 Cornwall Ave Ste C Bellingham WA 98225-5039	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : Philadelphia Indemnity Insurance Company</td> <td style="text-align: center;">18058</td> </tr> <tr> <td>INSURER B : Lloyd's of London</td> <td style="text-align: center;">15792</td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Philadelphia Indemnity Insurance Company	18058	INSURER B : Lloyd's of London	15792	INSURER C :		INSURER D :		INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A : Philadelphia Indemnity Insurance Company	18058														
INSURER B : Lloyd's of London	15792														
INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															

**COVERAGES      CERTIFICATE NUMBER: 1194766913      REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	PHPK2136674	6/1/2020	6/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$																
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	PHPK2136674	6/1/2020	6/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$																
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB723563	6/1/2020	6/1/2021	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$																
A	<input checked="" type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	PHPK2136674	6/1/2020	6/1/2021	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">PER STATUTE</td> <td style="width: 5%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 5%;">OTHER</td> <td style="width: 85%;">Stop Gap</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td></td> <td></td> <td>\$ 1,000,000</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td></td> <td></td> <td>\$ 1,000,000</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td></td> <td></td> <td>\$ 1,000,000</td> </tr> </table>	PER STATUTE	<input checked="" type="checkbox"/>	OTHER	Stop Gap	E.L. EACH ACCIDENT			\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE			\$ 1,000,000	E.L. DISEASE - POLICY LIMIT			\$ 1,000,000
PER STATUTE	<input checked="" type="checkbox"/>	OTHER	Stop Gap																				
E.L. EACH ACCIDENT			\$ 1,000,000																				
E.L. DISEASE - EA EMPLOYEE			\$ 1,000,000																				
E.L. DISEASE - POLICY LIMIT			\$ 1,000,000																				
B	Professional Liability Claims Made			ENP000344302	6/1/2020	6/1/2021	Limit 1,000,000 Retention 5,000 Aggregate 2,000,000																

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 Per policy forms and conditions: General Liability Deluxe Endorsement Human Services form PI-GLD-HS (10/11); Commercial Automobile Elite Endorsement form PI-CA-001 (09/15).  
 Whatcom County is named as additional insured. This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

<b>CERTIFICATE HOLDER</b>  Whatcom County 509 Girard St Bellingham WA 98225	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	--

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****GENERAL LIABILITY DELUXE ENDORSEMENT:  
HUMAN SERVICES**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE**

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

<b>Coverage Applicable</b>	<b>Limit of Insurance</b>	<b>Page #</b>
Extended Property Damage	Included	2
Limited Rental Lease Agreement Contractual Liability	\$50,000 limit	2
Non-Owned Watercraft	Less than 58 feet	2
Damage to Property You Own, Rent, or Occupy	\$30,000 limit	2
Damage to Premises Rented to You	\$1,000,000	3
HIPAA	Clarification	4
Medical Payments	\$20,000	5
Medical Payments – Extended Reporting Period	3 years	5
Athletic Activities	Amended	5
Supplementary Payments – Bail Bonds	\$5,000	5
Supplementary Payment – Loss of Earnings	\$1,000 per day	5
Employee Indemnification Defense Coverage	\$25,000	5
Key and Lock Replacement – Janitorial Services Client Coverage	\$10,000 limit	6
Additional Insured – Newly Acquired Time Period	Amended	6
Additional Insured – Medical Directors and Administrators	Included	7
Additional Insured – Managers and Supervisors (with Fellow Employee Coverage)	Included	7
Additional Insured – Broadened Named Insured	Included	7
Additional Insured – Funding Source	Included	7
Additional Insured – Home Care Providers	Included	7
Additional Insured – Managers, Landlords, or Lessors of Premises	Included	7
Additional Insured – Lessor of Leased Equipment	Included	7
Additional Insured – Grantor of Permits	Included	8
Additional Insured – Vendor	Included	8
Additional Insured – Franchisor	Included	9
Additional Insured – When Required by Contract	Included	9
Additional Insured – Owners, Lessees, or Contractors	Included	9
Additional Insured – State or Political Subdivisions	Included	10

Duties in the Event of Occurrence, Claim or Suit	Included	10
Unintentional Failure to Disclose Hazards	Included	10
Transfer of Rights of Recovery Against Others To Us	Clarification	10
Liberalization	Included	11
Bodily Injury – includes Mental Anguish	Included	11
Personal and Advertising Injury – includes Abuse of Process, Discrimination	Included	11

#### A. Extended Property Damage

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection 2. **Exclusions**, Paragraph a. is deleted in its entirety and replaced by the following:

##### a. Expected or Intended Injury

“Bodily injury” or property damage” expected or intended from the standpoint of the insured. This exclusion does not apply to “bodily injury” or “property damage” resulting from the use of reasonable force to protect persons or property.

#### B. Limited Rental Lease Agreement Contractual Liability

**SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection 2. **Exclusions**, Paragraph b. **Contractual Liability** is amended to include the following:

- (3) Based on the named insured’s request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to \$50,000. This coverage extension only applies to rental lease agreements. This coverage is excess over any renter’s liability insurance of the client.

#### C. Non-Owned Watercraft

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection 2. **Exclusions**, Paragraph g. (2) is deleted in its entirety and replaced by the following:

- (2) A watercraft you do not own that is:
- (a) Less than 58 feet long; and
  - (b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

#### D. Damage to Property You Own, Rent or Occupy

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE**

**LIABILITY**, Subsection **2. Exclusions**, Paragraph **j. Damage to Property**, Item **(1)** is deleted in its entirety and replaced with the following:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

**E. Damage to Premises Rented to You**

1. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:

- a. The last paragraph of **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**; is deleted in its entirety and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE**.

- b. **SECTION III – LIMITS OF INSURANCE**, Paragraph 6. is deleted in its entirety and replaced by the following:

Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems while rented to you or temporarily occupied by you with permission of the owner.

- c. **SECTION V – DEFINITIONS**, Paragraph 9.a., is deleted in its entirety and replaced by the following:

A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

2. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection **4. Other Insurance**, Paragraph **b. Excess Insurance**, **(1) (a) (ii)** is deleted in its entirety and replaced by the following:

That is insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems for premises rented to you or temporarily occupied by you with permission of the owner;

3. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:



- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof.

## F. HIPAA

**SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**, is amended as follows:

1. Paragraph 1. **Insuring Agreement** is amended to include the following:

We will pay those sums that the insured becomes legally obligated to pay as damages because of a "violation(s)" of the Health Insurance Portability and Accountability Act (HIPAA). We have the right and the duty to defend the insured against any "suit," "investigation," or "civil proceeding" seeking these damages. However, we will have no duty to defend the insured against any "suit" seeking damages, "investigation," or "civil proceeding" to which this insurance does not apply.

2. Paragraph 2. **Exclusions** is amended to include the following additional exclusions:

This insurance does not apply to:

- a. **Intentional, Willful, or Deliberate Violations**

Any willful, intentional, or deliberate "violation(s)" by any insured.

- b. **Criminal Acts**

Any "violation" which results in any criminal penalties under the HIPAA.

- c. **Other Remedies**

Any remedy other than monetary damages for penalties assessed.

- d. **Compliance Reviews or Audits**

Any compliance reviews by the Department of Health and Human Services.

3. **SECTION V – DEFINITIONS** is amended to include the following additional definitions:

- a. "Civil proceeding" means an action by the Department of Health and Human Services (HHS) arising out of "violations."
- b. "Investigation" means an examination of an actual or alleged "violation(s)" by HHS. However, "investigation" does not include a Compliance Review.
- c. "Violation" means the actual or alleged failure to comply with the regulations included in the HIPAA.

**G. Medical Payments – Limit Increased to \$20,000, Extended Reporting Period**

If **COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit is changed subject to all of the terms of **SECTION III - LIMITS OF INSURANCE** to the greater of:

- a. \$20,000; or
- b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

2. **SECTION I – COVERAGE, COVERAGE C MEDICAL PAYMENTS**, Subsection 1. **Insuring Agreement**, a. (3) (b) is deleted in its entirety and replaced by the following:

- (b) The expenses are incurred and reported to us within three years of the date of the accident.

**H. Athletic Activities**

**SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS**, Subsection 2. **Exclusions**, Paragraph e. **Athletic Activities** is deleted in its entirety and replaced with the following:

**e. Athletic Activities**

To a person injured while taking part in athletics.

**I. Supplementary Payments**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGE A AND B** are amended as follows:

1. **b.** is deleted in its entirety and replaced by the following:

- 1. **b.** Up to \$5000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these.

1.**d.** is deleted in its entirety and replaced by the following:

- 1. **d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

**J. Employee Indemnification Defense Coverage**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** the following is added:

We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding occurring in the course of employment.

The most we will pay for any "employee" who is alleged to be directly involved in a criminal proceeding is \$25,000 regardless of the numbers of "employees," claims or "suits" brought or persons or organizations making claims or bringing "suits."

**K. Key and Lock Replacement – Janitorial Services Client Coverage**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended to include the following:

We will pay for the cost to replace keys and locks at the "clients" premises due to theft or other loss to keys entrusted to you by your "client," up to a \$10,000 limit per occurrence and \$10,000 policy aggregate.

We will not pay for loss or damage resulting from theft or any other dishonest or criminal act that you or any of your partners, members, officers, "employees", "managers", directors, trustees, authorized representatives or any one to whom you entrust the keys of a "client" for any purpose commit, whether acting alone or in collusion with other persons.

The following, when used on this coverage, are defined as follows:

- a. "Client" means an individual, company or organization with whom you have a written contract or work order for your services for a described premises and have billed for your services.
- b. "Employee" means:
  - (1) Any natural person:
    - (a) While in your service or for 30 days after termination of service;
    - (b) Who you compensate directly by salary, wages or commissions; and
    - (c) Who you have the right to direct and control while performing services for you; or
  - (2) Any natural person who is furnished temporarily to you:
    - (a) To substitute for a permanent "employee" as defined in Paragraph (1) above, who is on leave; or
    - (b) To meet seasonal or short-term workload conditions;while that person is subject to your direction and control and performing services for you.
  - (3) "Employee" does not mean:
    - (a) Any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
    - (b) Any "manager," director or trustee except while performing acts coming within the scope of the usual duties of an "employee."
- c. "Manager" means a person serving in a directorial capacity for a limited liability company.

**L. Additional Insureds**

**SECTION II – WHO IS AN INSURED** is amended as follows:

- 1. If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph 3.a. is deleted in its entirety and replaced by the following:

a. Coverage under this provision is afforded until the end of the policy period.

2. Each of the following is also an insured:

a. **Medical Directors and Administrators** – Your medical directors and administrators, but only while acting within the scope of and during the course of their duties as such. Such duties do not include the furnishing or failure to furnish professional services of any physician or psychiatrist in the treatment of a patient.

b. **Managers and Supervisors** – Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your “employees” are also insureds for “bodily injury” to a co-“employee” while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

c. **Broadened Named Insured** – Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.

d. **Funding Source** – Any person or organization with respect to their liability arising out of:

(1) Their financial control of you; or

(2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

e. **Home Care Providers** – At the first Named Insured’s option, any person or organization under your direct supervision and control while providing for you private home respite or foster home care for the developmentally disabled.

f. **Managers, Landlords, or Lessors of Premises** – Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased or rented to you subject to the following additional exclusions:

This insurance does not apply to:

(1) Any “occurrence” which takes place after you cease to be a tenant in that premises; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.

g. **Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You** – Any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or

organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- h. Grantors of Permits** – Any state or political subdivision granting you a permit in connection with your premises subject to the following additional provision:
- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with the premises you own, rent or control and to which this insurance applies:
    - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
    - (b) The construction, erection, or removal of elevators; or
    - (c) The ownership, maintenance, or use of any elevators covered by this insurance.
- i. Vendors** – Only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:
- (1) The insurance afforded the vendor does not apply to:
    - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
    - (b) Any express warranty unauthorized by you;
    - (c) Any physical or chemical change in the product made intentionally by the vendor;
    - (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
    - (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
    - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
  - (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
    - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
    - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing.
- j. **Franchisor** – Any person or organization with respect to their liability as the grantor of a franchise to you.
- k. **As Required by Contract** – Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations
- l. **Owners, Lessees or Contractors** – Any person or organization, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:
  - (1) Your acts or omissions; or
  - (2) The acts or omissions of those acting on your behalf;in the performance of your ongoing operations for the additional insured when required by a contract.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- (a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (b) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**m. State or Political Subdivisions** – Any state or political subdivision as required, subject to the following provisions:

- (1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit, and is required by contract.
- (2) This insurance does not apply to:
  - (a) "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

**M. Duties in the Event of Occurrence, Claim or Suit**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 2.** is amended as follows:

a. is amended to include:

This condition applies only when the "occurrence" or offense is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

b. is amended to include:

This condition will not be considered breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

**N. Unintentional Failure To Disclose Hazards**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 6. Representations** is amended to include the following:

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

**O. Transfer of Rights of Recovery Against Others To Us**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 8. Transfer of Rights of**

**Recovery Against Others To Us** is deleted in its entirety and replaced by the following:

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

**P. Liberalization**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, is amended to include the following:

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

**Q. Bodily Injury – Mental Anguish**

**SECTION V – DEFINITIONS**, Paragraph 3. Is deleted in its entirety and replaced by the following:

"Bodily injury" means:

- a. Bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

**R. Personal and Advertising Injury – Abuse of Process, Discrimination**

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

1. **SECTION V – DEFINITIONS**, Paragraph 14.b. is deleted in its entirety and replaced by the following:

- b. Malicious prosecution or abuse of process;

2. **SECTION V – DEFINITIONS**, Paragraph 14. is amended by adding the following:

Discrimination based on race, color, religion, sex, age or national origin, except when:

- a. Done intentionally by or at the direction of, or with the knowledge or consent of:
  - (1) Any insured; or
  - (2) Any executive officer, director, stockholder, partner or member of the insured;
- b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured;



- c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or
- d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****COMMERCIAL AUTOMOBILE ELITE ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE PART**

Following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

<b>Coverage Applicable</b>	<b>Limit of Insurance</b>	<b>Page #</b>
Who is An Insured		2
Board Members	Included	
Newly Acquired Entities	Included	
Designated Insured	Included	
Lessor of Leased Autos	Included	
Cost of Bail Bonds	\$5,000	2
Reasonable Expenses – Loss of Earnings	\$500 per day	2
Fellow Employee Coverage	Amended	3
Towing	\$100 per disablement	3
Glass Breakage (Windshields and Windows)	No deductible applies	3
Transportation Expenses	\$100 per day / \$3,000 maximum	3
Hired Auto Physical Damage – Loss of Use	\$100 per day / \$1,000 maximum	3
Hired Auto Physical Damage	ACV or repair or replacement of the vehicle whichever is less	4
Personal Effects	\$500	4
Rental Reimbursement	\$100 per day / 30 days	4
Accidental Discharge – Air Bag	Amended	4
Electronic Equipment	\$1000	5
Original Equipment Manufacturer Parts Replacement	Included	5
Auto Loan / Lease Gap Coverage	Amended	5
One Comprehensive Coverage Deductible Per Occurrence	Amended	6
Notice of and Knowledge of Occurrence	Amended	7
Blanket Waiver of Subrogation	Amended (as required by written contract)	7
Unintentional Errors or Omissions	Amended	7
Mental Anguish – Bodily Injury Redefined	Amended	7

Coverage extensions under this endorsement only apply in the event that no other specific coverage for these extensions is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted in this endorsement.

Any deductible listed in the Auto Declarations Page will apply unless specific deductible provisions are set forth under a coverage enhancement below.

## I. LIABILITY COVERAGE EXTENSIONS

### A. Who Is An Insured

**SECTION II – LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured** is amended by adding the following:

The following are also "insureds":

1. **Board Members** – Board members (or their spouses) while renting a vehicle while on business for the named insured.
2. **Newly Acquired Entities** – Any business entity newly acquired or formed by you during the policy period, provided you own 50% or more of the business entity and the business entity is not separately insured for Business Auto Coverage. Coverage is extended up to a maximum of 180 days following the acquisition or the formation of the business entity.
3. **Designated Insured** – Any person or organization designated by the "insured" is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **SECTION II** of the Coverage Form.
4. **Lessor of Leased Autos** – The lessor of a "leased auto" is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
  - a. You;
  - b. Any of your "employees" or agents; or
  - c. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.

Any "leased auto" in the policy schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.

The coverages provided under this endorsement apply to any "leased auto" in the policy schedule until the expiration date of the lease, or when the lessor or his or her agent takes possession of the "leased auto," whichever occurs first.

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

### B. Cost of Bail Bonds

**SECTION II – LIABILITY COVERAGE, A. Coverage, 2. Coverage Extensions, a. Supplementary Payments**, Item (2) is deleted in its entirety and replaced with the following:

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

### C. Reasonable Expenses

**SECTION II – LIABILITY COVERAGE, A. Coverage, 2. Coverage Extensions, a. Supplementary Payments**, Item (4) is deleted in its entirety and replaced with the following:

- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

**D. Fellow Employee Coverage**

**SECTION II – LIABILITY COVERAGE, B. Exclusions, 5. Fellow Employee** is deleted in its entirety and replaced by the following:

"Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.

However, this exclusion does not apply to any manager or officer of your company.

**II. PHYSICAL DAMAGE COVERAGE EXTENSIONS**

**A. Towing**

**SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 2. Towing** is deleted in its entirety and replaced with the following:

**2. Towing**

We will pay up to \$100 for towing and labor costs incurred each time a covered "auto" is disabled. However, the labor must be performed at the place of disablement. No deductible applies to this enhancement.

**B. Glass Breakage**

**SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles** is amended by adding the following:

No deductible applies to "loss" to glass used in the windshield or windows.

**C. Transportation Expenses**

**SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, a. Transportation Expenses** is deleted in its entirety and replaced with the following:

**a. Transportation Expenses**

We will pay up to \$100 per day to a maximum of \$3,000 for temporary transportation expenses incurred by you because of a "loss" to a covered "auto." We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the "loss" and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss."

**D. Hired Auto Physical Damage – Loss of Use**

The last sentence of **SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, b. Loss of Use Expenses** is deleted in its entirety and replaced with the following:

However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$1,000.

**E. Hired Auto Physical Damage**

**SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions** is amended by adding the following extension:

**Hired Auto Physical Damage**

Any "auto" you lease, hire, rent or borrow from someone other than your "employees" or partners, or members of their household is a covered "auto" for each of your physical damage coverages.

The most we will pay for any "loss" in any one "accident" is the ACV or the cost for repair or replacement of the vehicle, whichever is less.

For each covered "auto" our obligation to pay will be reduced by a deductible of \$500 for Comprehensive Coverage and \$1000 for Collision Coverage.

**F. Personal Effects Coverage**

**SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions** is amended by adding the following extension:

**Personal Effects Coverage**

We will pay up to \$500 for "loss" to personal effects, which are:

1. Owned by an "insured"; and
2. In or on your covered "auto."

This coverage applies only in the event of the total theft of your covered "auto." No deductible applies to this coverage.

**G. Rental Reimbursement**

**SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions** is amended by adding the following extension:

**Rental Reimbursement Coverage**

We will pay up to \$100 per day, for up to 30 days, for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto."

We will also pay up to \$300 for reasonable and necessary expenses incurred by you to remove and replace your materials and equipment from the covered "auto."

If "loss" results from the total theft of a covered "auto," we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under **Item III. C. Transportation Expenses** of this endorsement.

**H. Accidental Discharge – Airbag Coverage**

**SECTION III – PHYSICAL DAMAGE COVERAGE, B. Exclusions, Paragraph 3.** is amended by adding the following exception:

This exclusion does not apply to the accidental discharge of an airbag. This coverage is excess of any other collectible insurance or warranty. No deductible applies to this coverage.

#### **I. Electronic Equipment Coverage**

The following supersedes anything to the contrary in **SECTION III – PHYSICAL DAMAGE COVERAGE, B. Exclusions**, Paragraph 4.

Exclusions **4.c.** and **4.d.** do not apply to:

Any risk management or monitoring equipment and electronic equipment that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound. This coverage applies only if the equipment is permanently installed in the covered "auto" at the time of the "loss" or the equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss," and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto."

The most we will pay for all "loss" to risk management or monitoring equipment, audio, visual or data electronic equipment that is not designed solely for the reproduction of sound and any accessories used with this equipment as a result of any one "accident" is the least of:

- a. The actual cash value of the damaged or stolen property at the time of the "loss";
- b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or
- c. \$1,000.

This coverage will not apply if there is other insurance provided by this policy for the above-described electronic equipment. We will, however, pay any deductible, up to \$500, that is applicable under the provisions of the other insurance.

#### **J. Original Equipment Manufacturer (OEM) Parts Replacement**

**SECTION III – PHYSICAL DAMAGE COVERAGE, C. Limit of Insurance**, Paragraph 1. is amended to include:

However, if the covered "auto" has less than 20,000 miles on its odometer, then the following condition will apply:

We will pay the cost to replace the damaged parts (excluding glass and mechanical parts) with new Original Equipment Manufacturer replacement parts if the damaged parts cannot be repaired.

#### **K. Auto Loan / Lease Gap Protection**

**SECTION III – PHYSICAL DAMAGE COVERAGE, C. Limit of Insurance** is amended to include the following:

4. In the event of "loss" to a covered "auto" that is loaned or leased to an "insured":
  - a. The most we will pay for "loss" in any one "accident" is the lesser of:

- (1) The actual cash value of the damaged or stolen property as of the time of the "loss";  
or
  - (2) The cost of repairing or replacing the damaged or stolen property with other property of like, kind and quality.
- b. Our Limit of Insurance for "total loss" will be the greater of:
- (1) The balance due under the terms of the lease or loan, to which your "auto" is subject but not including:
    - (a) Past due payments;
    - (b) Financial penalties imposed under the lease;
    - (c) Security deposits not refunded;
    - (d) Costs for extended warranties or insurance; or
    - (e) Final payment due under a "balloon loan"; or
  - (2) Actual cash value of the stolen or damaged property.

An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of "loss."

c. Additional Definitions

- (1) "Total loss" for the purpose of this coverage, means a loss in which the estimated cost of repairs, plus the salvage value, exceeds the actual cash value.
- (2) "Balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.

d. Additional Conditions

This coverage will apply only to the original lease or loan written on your covered "auto." In order for this coverage to apply, leased "autos" must be leased or rented to you under a leasing or rental agreement, for a period of not less than six months, which requires you to provide direct primary insurance for the benefit of the lessor.

**L. One Comprehensive Coverage Deductible**

**SECTION III – PHYSICAL DAMAGE COVERAGE, D. Deductible** is amended by adding the following:

Only one Comprehensive Coverage Deductible per occurrence will apply to any "loss" resulting from a covered peril.

For the purpose of this extension, occurrence means a single incident, including continuous or repeated exposure to substantially the same general harmful conditions within a 24-hour period.

### III. BUSINESS AUTO CONDITIONS

#### A. Notice and Knowledge of Occurrence

**SECTION IV – BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties In The Event Of Accident, Claim, Suit Or Loss**, Paragraph a. is deleted in its entirety and replaced with the following:

- a. In the event of "accident," claim, "suit" or "loss," you must give us, or our authorized representative, prompt notice of the "accident" or "loss." Include:

- (1) How, when and where the "accident" or "loss" occurred;
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

#### B. Blanket Waiver Of Subrogation

**SECTION IV – BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer Of Rights Of Recovery Against Others To Us**, is amended by adding the following exception:

However, we waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury" or "property damage" arising out of the operation of a covered "auto" when you have assumed liability for such "bodily injury" or "property damage" under an "insured contract."

#### C. Unintentional Errors or Omissions

**SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 2. Concealment, Misrepresentation, Or Fraud** is amended by adding the following:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

### IV. DEFINITIONS

#### A. Mental Anguish

**SECTION V – DEFINITIONS, C. "Bodily injury"** is amended by adding the following:

"Bodily injury" also includes mental anguish but only when the mental anguish arises from other bodily injury, sickness, or disease.



**Exhibit "D"**  
(Business Associate Agreement)

This Business Associate Agreement (the "Agreement") is made effective the 1<sup>st</sup> day of January, 2021, by and between Opportunity Council hereinafter referred to as "Covered Entity" and Whatcom County, hereinafter referred to as "Business Associate" (individually, a "Party" and collectively, the "Parties").

**RECITALS:**

WHEREAS, the Parties wish to enter into a Business Associate Agreement to ensure compliance with the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPAA Privacy and Security Rules) (45 CFR Parts 160 and 164); and

WHEREAS, the Health Information Technology for Economic and Clinical Health (HITECH) Act of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, modified the HIPAA Privacy and Security Rules (hereinafter, all references to the "HIPAA Privacy and Security Rules" include all amendments there to set forth in the HITECH Act and any accompanying regulations); and

WHEREAS, the Parties have entered into a written or oral arrangement or arrangements (the "Agreements") whereby Business Associate will provide certain services to Covered Entity and, pursuant to such Agreements, Business Associate may be considered a "Business Associate" of Covered Entity as defined in the HIPAA Privacy and Security Rules; and

WHEREAS, Business Associate may have access to Protected Health Information (hereinafter "PHI") or Electronic Protected Health Information (as defined below) in fulfilling its responsibilities under the Agreements; and

WHEREAS, Covered Entity wishes to comply with the HIPAA Privacy and Security Rules, and Business Associate wishes to honor its obligations as a Business Associate to Covered Entity.

THEREFORE, in consideration of the Parties' continuing obligations under the Agreements, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement.

**I. DEFINITIONS**

Except as otherwise defined herein, any and all capitalized terms in this Agreement shall have the definitions set forth in the HIPAA Privacy and Security Rules. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Privacy and Security Rules, as amended, the HIPAA Privacy and Security Rules in effect at the time shall control. Where provisions of this Agreement are different than those mandated by the HIPAA Privacy and Security Rules, but are nonetheless permitted by the HIPAA Privacy and Security Rules, the provisions of this Agreement shall control.

The term "Breach" means the unauthorized acquisition, access, use, or disclosure of PHI which compromises the security or privacy of such information. The term "Breach" does not include: (1) any unintentional acquisition, access, or use of PHI by any employee or individual acting under the authority of a covered entity or business associate if (a) such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate, and (b) such information is not further impermissibly acquired, used, or disclosed by any person; (2) any inadvertent disclosure by an individual who is otherwise authorized to access PHI at a facility operated by a covered entity or business associate to another similarly situated individual at the same facility, where the information disclosed is not further impermissibly acquired, accessed, used, or disclosed by any person; or (3) an impermissible disclosure of PHI where Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information. The term "HIPAA Privacy and Security Rules" refers to 45 CFR Parts 160 and 164 as currently in effect or hereafter amended.

The term "Protected Health Information" or "PHI" means individually identifiable health information including, without limitation, all information, data, documentation, and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is reasonable basis to believe the information can be used to identify the individual. "Protected Health Information" includes without limitation, "Electronic Protected Health Information", as defined below.

The term "Electronic Protected Health Information" means PHI which is transmitted by or maintained in Electronic Media (as now or hereafter defined in the HIPAA Privacy and Security Rules).

The term "Secretary" means the Secretary of the Department of Health and Human Services.

The term "Unsecured Protected Health Information" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in guidance published in the Federal Register at 74 Fed. Reg. 19006 on April 27, 2009 and in annual guidance published thereafter.

## **II. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

- A. Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreements, provided that such use or disclosure would not violate the HIPAA Privacy and Security Rules if done by Covered Entity.
- B. Business Associate may use PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Business Associate, provided that such uses are permitted under state and federal confidentiality laws.
- C. Business Associate may disclose PHI in its possession to third parties for the purposes of its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that:
  - 1. The disclosures are required by law; or
  - 2. Business Associate obtains reasonable assurances from the third parties to whom the PHI is disclosed that the information will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party, and that such third parties will notify Business Associate of any instances of which they are aware in which the confidentiality of the information has been breached.
- D. Until such time as the Secretary issues regulations pursuant to the HITECH Act specifying what constitutes "minimum necessary" for purposes of the HIPAA Privacy and Security Rules, Business Associate shall, to the extent practicable, access, use, and request only PHI that is contained in a limited data set (as defined in Section 164.514(e)(2) of the HIPAA Privacy and Security Rules), unless Business Associate requires certain direct identifiers in order to accomplish the intended purpose of the access, use or request, in which the Business Associate may access, use, or request only the minimum necessary amount of PHI to accomplish the intended purpose of the access, use, or request. The Parties shall collaborate in determining what quantum of information constitutes the "minimum necessary" amount for Business Associate to accomplish its intended purposes.

## **III. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE**

- A. Business Associate acknowledges and agrees that all PHI that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording, and

electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

- B. Business Associate agrees to not use or further disclose PHI other than as permitted or required by this Agreement or as required by law.
- C. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. Specifically, Business Associate will:
  - 1. Implement the administrative, physical and technical safeguards set forth in Sections 164.308, 164.310, and 164.312 of the HIPAA Privacy and Security Rules that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, and, in accordance with Section 164.316 of the HIPAA Privacy and Security Rules, implement and maintain reasonable and appropriate policies and procedures to enable it to comply with the requirements outlined in Sections 164.308, 164.310, and 164.312; and
  - 2. Report to Covered Entity any use or disclosure of PHI not provided for by this Agreement, including any Security Incident, of which Business Associate becomes aware, regardless of whether the Security Incident rises to the level of a Breach. For purposes of this Agreement, "Security Incident" means the successful unauthorized access, use, disclosure, modification, or destruction of PHI or interference with system operations in an information system, of which Business Associate has knowledge or should, with the exercise of reasonable diligence, have knowledge, excluding (i) "pings" on an information system firewall; (ii) port scans; (iii) attempts to log on to an information system or enter a database with an invalid password or user name; (iv) denial-of-service attacks that do not result in a server being taken offline; or (v) "malware" (e.g., a worm or a virus) that does not result in unauthorized access, use, disclosure, modification or destruction of PHI. The report shall be made as soon as practical and in any event within ten (10) days of Business Associate's discovery of the Security Incident. A Security Incident shall be treated as discovered by Business Associate as of the first day on which such Security Incident is known to Business Associate or, through the exercise of reasonable diligence, would have been known to Business Associate.
- D. Business Associate agrees to ensure any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- E. Business Associate agrees to comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed in accordance with Section 164.522 of the HIPAA Privacy and Security Rules of which Business Associate has been notified by Covered Entity. In addition, and notwithstanding the provisions of Section 164.522 (a)(1)(ii), Business Associate agrees to comply with an individual's request to restrict disclosure of PHI to a health plan for purposes of carrying out payment or health care operations if the PHI pertains solely to a health care item or service for which Covered Entity has been paid in full by the individual's representative. The restriction can only apply to disclosures beginning the next business day after the request for restriction is received.
- F. At the request of the Covered Entity, in a reasonable time and manner, Business Associate agrees to make available PHI required for Covered Entity to respond to an individual's request for access to his or her PHI in accordance with Section 164.524 of the HIPAA Privacy and Security Rules. If Business Associate maintains PHI electronically, it agrees to make such PHI available electronically to the applicable individual or to a person or entity specifically designated by such individual, upon such individual's request.
- G. At the request of the Covered Entity, and in a reasonable time and manner, Business Associate agrees to make available PHI required for amendment by Covered Entity in accordance with the requirements of Section 164.526 of the HIPAA Privacy and Security Rules.
- H. Business Associate agrees to document any disclosures of, and make PHI available, for purposes of accounting of disclosures, as required by Section 164.528 of the HIPAA Privacy and Security Rules.

- I. Business Associate agrees that it will make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Secretary for the purpose of determining Covered Entity's compliance with the HIPAA Privacy and Security Rules, in a time and manner designated by the Secretary.
- J. Business Associate agrees that, while present at any Covered Entity facility and/or when accessing Covered Entity's computer network(s), it and all of its employees, agents, representatives, and subcontractors will at all times comply with any network access and other security practices, procedures and/or policies established by Covered Entity including, without limitation, those established pursuant to the HIPAA Privacy and Security Rules.
- K. Business Associate agrees that it will not directly or indirectly receive remuneration in exchange for any PHI of an individual without the written authorization of the individual or the individual's representative, except where the purpose of the exchange is:
  - 1. For public health activities as described in Section 164.512(b) of the HIPAA Privacy and Security Rules;
  - 2. For research described in Sections 164.501 and 164.512(i) of the HIPAA Privacy and Security Rules, and the price charged reflects the costs of preparation and transmittal of the data for such purpose;
  - 3. For treatment of the individual, subject to any further regulation promulgated by the Secretary to prevent inappropriate access, use, or disclosure of PHI;
  - 4. For the sale, transfer, merger, or consolidation of all or part of Business Associate and due diligence related to that activity;
  - 5. For an activity that Business Associate undertakes on behalf of and at the specific request of Covered Entity;
  - 6. To provide an individual with a copy of the individual's PHI pursuant to Section 164.524 of the HIPAA Privacy and Security Rules; or
  - 7. Other exchanges that the Secretary determines in regulations to be similarly necessary and appropriate as those described in this Section III.K.
- L. Business Associate agrees that it will not directly or indirectly receive remuneration for any written communication that encourages an individual to purchase or use a product or service without first obtaining the written authorization of the individual or the individual's representative, unless:
  - 1. Such payment is for a communication regarding a drug or biologic currently prescribed for the individual and is reasonable in amount (as defined by the Secretary); or
  - 2. The communication is made on behalf of Covered Entity and is consistent with the terms of this Agreement.
- M. Business Associate agrees that if it uses or discloses patients' PHI for marketing purposes, it will obtain Covered Entity's written approval and such patients' authorization before making any such use or disclosure.

#### **IV. BUSINESS ASSOCIATE'S MITIGATION AND BREACH NOTIFICATION OBLIGATIONS**

- A. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- B. Following the discovery of a Breach of Unsecured Protected Health Information, Business Associate shall notify Covered Entity of such Breach without unreasonable delay and in no case later than ten (10) calendar days after discovery of the Breach. A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known to Business Associate or, through the exercise of reasonable diligence, would have been known to Business Associate.

- C. Notwithstanding the provisions of Section IV.B., above, if a law enforcement official states to Business Associate that notification of a Breach would impede a criminal investigation or cause damage to national security, then:
1. If the statement is in writing and specifies the time for which a delay is required, Business Associate shall delay such notification for the time period specified by the official; or
  2. If the statement is made orally, Business Associate shall document the statement, including the identity of the official making it, and delay such notification for no longer than thirty (30) days from the date of the oral statement unless the official submits a written statement during that time.

Following the period of time specified by the official, Business Associate shall promptly deliver a copy of the official's statement to Covered Entity.

- D. The Breach notification provided shall include, to the extent possible:
1. The identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach;
  2. A brief description of what happened, including the date of the Breach and the date of discovery of the Breach, if known;
  3. A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
  4. Any steps individuals should take to protect themselves from potential harm resulting from the Breach;
  5. A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to individuals, and to protect against any further Breaches and when such steps were taken; and
  6. Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- E. Business Associate shall provide the information specified in Section IV.D. above, to Covered Entity at the time of the Breach notification, if possible, or promptly thereafter as information becomes available. Business Associate shall not delay notification to Covered Entity that a Breach has occurred in order to collect the information described in Section IV.D., and shall provide such information to Covered Entity even if the information becomes available after the ten (10)-day period provided for initial Breach notification.

#### **V. OBLIGATIONS OF COVERED ENTITY**

- A. Upon request of Business Associate, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520 of the HIPAA Privacy and Security Rules.
- B. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- C. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI to which Covered Entity has agreed in accordance with Section 164.522 of the HIPAA Privacy and Security Rules, and Covered Entity shall inform Business Associate of the termination of any such restriction, and the effect that such termination shall have, if any, upon Business Associate's use and disclosure of such PHI. Business Associate shall have a reasonable period of time to act on such notice.

#### **VI. TERM AND TERMINATION**

- A. Term. The Term of this Agreement shall be effective as of the date first written above, and shall terminate upon the later of the following events: (i) in accordance with Section VI.C., when all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity or, if such return or destruction is infeasible, when protections are extended to such information; or (ii) upon the expiration or termination of the last of the Agreements.
- B. Termination. Upon either Party's knowledge of a material breach by the other Party of its obligations under this Agreement, the non-breaching Party shall, within twenty (20) days of that determination, notify the breaching Party, and the breaching Party shall have thirty (30) days from receipt of that notice to cure the breach or end the violation. If the breaching Party fails to take reasonable steps to affect such a cure within such time period, the non-breaching Party may terminate this Agreement and the Agreements.

Where either Party has knowledge of a material breach by the other Party and determines that cure is infeasible, prior notice of the breach is not required, and the non-breaching Party shall terminate the portion of the Agreements affected by the breach.

Where neither cure nor termination is feasible, the non-breaching Party shall report the violation to the Secretary.

C. Effect of Termination.

1. Except as provided in paragraph (2) of this subsection C., upon termination of this Agreement, the Agreements or upon request of Covered Entity, whichever occurs first, Business Associate shall within ten (10) days return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Neither Business Associate nor its subcontractors or agents shall retain copies of the PHI.
2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide within ten (10) days to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible; Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

## VII. MISCELLANEOUS

- A. Indemnification. Each Party shall indemnify and hold the other harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards, or other expenses, of any kind or nature whatsoever, including, without limitations, attorneys' fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any breach or alleged breach of this Agreement, or any Breach, by that Party or its subcontractors or agents.
- B. No Rights in Third Parties. Except as expressly stated herein, in the HIPAA Privacy and Security Rules, the Parties to this Agreement do not intend to create any rights in any third parties.
- C. Survival. The obligations of Business Associate under Section VI.C. of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Agreements, and/or the business relationship of the Parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein. Furthermore, the Parties' indemnification obligations pursuant to Section VII.A. of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Agreements, and/or the business relationship of the Parties, and shall continue to bind the Parties, their agents, employees, contractors, successors, and assigns as set forth herein.
- D. Amendment. This Agreement may be amended or modified only in a writing signed by the Parties. The Parties agree that they will negotiate amendments to this Agreement to conform to any changes in the HIPAA Privacy and Security Rules as are necessary for Covered Entity to comply with the current

requirements of the HIPAA Privacy and Security Rules. In addition, in the event that either Party believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of the HIPAA Privacy and Security Rules or any other applicable legislation, then such Party shall notify the other Party of its belief in writing. For a period of up to thirty (30) days, the Parties shall address in good faith such concern and amend the terms of this Agreement, if necessary to bring it into compliance. If, after such thirty (30)-day period, the Agreement fails to comply with the HIPAA Privacy and Security Rules or any other applicable legislation, then either Party has the right to terminate this Agreement and the underlying arrangement upon written notice to the other Party.

- E. Assignment. Neither Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.
- F. Independent Contractor. None of the provisions of this Agreement are intended to create, nor will they be deemed to create, any relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship.
- G. Governing Law. To the extent this Agreement is not governed exclusively by the HIPAA Privacy and Security Rules or other provisions of federal statutory or regulatory law, it will be governed by and construed in accordance with the laws of the State of Washington.
- H. No Waiver. No change, waiver, or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.
- I. Interpretation. Any ambiguity of this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Privacy and Security Rules.
- J. Severability. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.
- K. Notice. Any notification required in this Agreement shall be made in writing to the representative of the other Party who signed this Agreement or the person currently serving in that representative's position with the other Party.
- L. Certain Provisions Not Effective in Certain Circumstances. The provisions of this Agreement relating to the HIPAA Security Rule shall not apply to Business Associate if Business Associate does not receive any Electronic PHI from or on behalf of Covered Entity.
- M. Entire Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written. In the event of any inconsistency between this Agreement and any other agreement between the Parties concerning the use and disclosure of PHI and the Parties' obligations with respect thereto, the terms of this Agreement shall control.



**"Exhibit E"**

(Special Terms and Conditions for Commerce Emergency Solutions Grant –  
COVID 19 ESG-CV – CFDA #14.231)

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

**1. DEFINITIONS**

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

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

**2. ACKNOWLEDGMENT OF FEDERAL FUNDS**

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

"This project was supported by Grant No. E-20-DW-53-0001 awarded by U.S. Department of Housing and Urban Development (HUD) as a supplemental appropriation through the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act). Points of view in this document are those of the author and do not necessarily represent the official position or policies of the HUD. Grant funds are administered by the Housing Assistance Unit in the Community Services and Housing Division, Washington State Department of Commerce."

**3. ALL WRITINGS CONTAINED HEREIN**



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

**4. AMENDMENTS**

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

**5. ASSIGNMENT**

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

**6. AUDIT**

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

- A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
- B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

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

The Grantee shall send all single audit documentation to [auditreview@commerce.wa.gov](mailto:auditreview@commerce.wa.gov).

**7. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION**

**A.** "Confidential Information" as used in this section includes:

- i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
- ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
- iii. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

**B.** The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

- C. **Unauthorized Use or Disclosure.** The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

**8. COPYRIGHT**

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

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

**9. DUPLICATE PAYMENT**

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

**10. GOVERNING LAW AND VENUE**

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

**11. INDEMNIFICATION**

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suite, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Grantee's or any subgrantee's/subcontractor's performance or failure to perform the Grant. Grantee's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees, and officials.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the state and its agencies, officers, agents, or employees.

**12. LAWS**

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

**13. LICENSING, ACCREDITATION AND REGISTRATION**

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

**14. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS**

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

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

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

- A. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.
- B. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- C. Minimum procedural requirements, as follows:
  - i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
  - ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
  - iii. Positive efforts shall be made to use small and minority-owned businesses.
  - iv. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Contractor, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
  - v. Contracts shall be made with only reasonable subgrantees/subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
  - vi. Some form of price or cost analysis should be performed in connection with every procurement action.
  - vii. Procurement records and files for purchases shall include all of the following:
    - 1) Contractor selection or rejection
    - 2) The basis for the cost or price
    - 3) Justification for lack of competitive bids if offers are not obtained

viii. A system for contract administration to ensure Contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.

D. Contractor and Subgrantee/subcontractor must receive prior approval from COMMERCE for using funds from this Contract to enter into a sole source contract or a contract where only one bid or proposal is received when value of this Contract is expected to exceed \$5,000.

**15. PUBLICITY**

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

**16. RECAPTURE**

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

**17. RECORDS MAINTENANCE**

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

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

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

**18. SAVINGS**

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

**19. SEVERABILITY**

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

**20. SUBGRANTING/SUBCONTRACTING**

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

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

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

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

**21. SITE SECURITY**

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

**22. SURVIVAL**

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

**23. TREATMENT OF ASSETS**

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

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

All reference to the Grantee under this clause shall also include Grantee's employees, agents, or Subgrantees/Subcontractors.

**24. WAIVER**

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

**“Exhibit F”**  
**(CERTIFICATION REGARDING LOBBYING)**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an office or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, or cooperative agreement.
  
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an office or employee of any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure of Lobbying Activities,” in accordance with its instructions.
  
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Agency Name:** Opportunity Council

**Authorized Representative:** Greg Winter, Executive Director

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_