

**WHATCOM COUNTY CONTRACT  
INFORMATION SHEET**

Whatcom County Contract No.  
201611028 - 5

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

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	201611028	

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

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

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

Is this contract the result of a RFP or Bid process?	If yes, RFP and Bid number(s):	16-47	Contract Cost Center:	122200
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				

Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	If no, include Attachment D Contractor Declaration form.
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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):	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>
\$ 524,030	
This Amendment Amount:	
\$ 213,770	
Total Amended Amount:	<ol style="list-style-type: none"> <li>Exercising an option contained in a contract previously approved by the council.</li> <li>Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.</li> <li>Bid or award is for supplies.</li> <li>Equipment is included in Exhibit "B" of the Budget Ordinance</li> <li>Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.</li> </ol>
\$ 737,800	

Summary of Scope: This contract provides funding for case management services to individuals receiving rental subsidies through the Whatcom Homeless Service Center in order to improve housing stability and reduce homelessness in Whatcom County.

Term of Contract:	1 Year	Expiration Date:	12/31/2020
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Contract Routing:	1. Prepared by:	JT	Date:	08/12/2019
	2. Health Budget Approval	KR	Date:	10/31/2019
	3. Attorney signoff:	RB	Date:	11/01/2019
	4. AS Finance reviewed:	bbennett 	Date:	10/31/2019
	5. IT reviewed (if IT related):		Date:	
	6. Contractor signed:		Date:	
	7. Submitted to Exec.:		Date:	
	8. Council approved (if necessary):		Date:	
	9. Executive signed:		Date:	
	10. Original to Council:		Date:	

**WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT AMENDMENT**

**Whatcom County # 201611028**

**PARTIES:**

**Whatcom County  
Whatcom County Courthouse  
311 Grand Avenue  
Bellingham, WA 98225**

**AMENDMENT NUMBER: 5**

**CONTRACT PERIODS:**

**Original: 01/01/2017 – 12/31/2017  
Amendment #1: 08/01/2017 – 12/31/2017  
Amendment #2: 01/01/2018 – 12/31/2018  
Amendment #3: 12/01/2018 – 12/31/2018  
Amendment #4: 01/01/2019 – 12/31/2019  
Amendment #5: 01/01/2020 – 12/31/2020**

**AND CONTRACTOR:**

**Lydia Place  
PO Box 28487  
Bellingham, WA 98228**

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

**DESCRIPTION OF AMENDMENT:**

1. Extend the duration and other terms of this contract for 1 year, as per the original contract "General Terms, Section 10.2, Extension".
2. Amend Exhibit A – Scope of Work, to add recipient requirements for Consolidated Homeless Grant funding and to update outcome and reporting requirements; revised Exhibit A is attached.
3. Amend Exhibit B – Compensation, to reflect the 2020 budget; revised Exhibit B is attached.
4. Add Exhibit E – Special Terms and Conditions of Commerce Grants.
5. Funding for this contract period (01/01/2020 – 12/31/2020) is not to exceed \$213,770.
6. All other terms and conditions remain unchanged.
7. The effective start date of the amendment is 01/01/2020.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT. Signature is required below.

APPROVAL AS TO PROGRAM: Anne Deacon 11/5/19  
Anne Deacon, Human Services Manager Date

DEPARTMENT HEAD APPROVAL: Regina A. Delahunt 11/6/19  
Regina A. Delahunt, Health Department Director Date

APPROVAL AS TO FORM: [Signature] 11-6-19  
Royce Buckingham, Civil Deputy Prosecuting Attorney Date

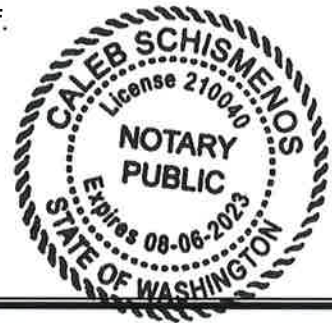
**FOR THE CONTRACTOR:**

[Signature] | Emily O'Conner, Executive Director | 11/4/19  
Contractor Signature | Print Name and Title | Date

STATE OF WASHINGTON )  
COUNTY OF WHATCOM )

On this 5<sup>th</sup> day of November, 2019, before me personally appeared Emily O'Conner, to me known to be the Executive Director and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

[Signature]  
NOTARY PUBLIC in and for the State of Washington  
Residing at 600 E Holly St



My Commission expires: 08-06-2023

**FOR WHATCOM COUNTY:**

\_\_\_\_\_  
Jack Louws, County Executive Date

STATE OF WASHINGTON )  
COUNTY OF WHATCOM )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
Residing at Bellingham.

My Commission expires: \_\_\_\_\_

**EXHIBIT "A" – Amendment #5**  
**(SCOPE OF WORK)**

**I. Background**

According to the annual point in time count of homeless persons conducted in January of 2019, at least 700 people in Whatcom County were homeless. Throughout the year, more may face the prospect of losing their homes. Whatcom County's Plan to End Homelessness provides a blueprint for how our community will work together to prevent and end homelessness. The provision of housing assistance and case management services are key strategies of the Plan.

Housing case management under WHSC partnership includes both rental subsidy and housing case management components. The WHSC staff determines client eligibility for services and authorizes and distributes rent subsidies to local landlords on behalf of participating clients, makes referrals for case management to partner agencies, and coordinates required data collection efforts. Through this contract, Lydia Place will serve as one of the Whatcom Homeless Service Center (WHSC) partner agencies providing housing case management.

The purpose of this contract is to provide case management for individuals and families experiencing homelessness in order to improve housing stability and reduce homelessness in Whatcom County.

**II. Definitions**

Housing Interest Pool (HIP)	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 data base.
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% area median gross income as defined by HUD.
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1) centralized coordinated system of access (2) targeted prevention assistance to reduce the number of households that become homeless, (3) re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5) data management and tracking information for people receiving homeless housing services in Whatcom County and according to Washington State Department of Commerce HMIS data collection requirements.

**III. Statement of Work**

The contractor will provide housing case management services. Housing case management includes activities for the arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of households and helping them obtain housing stability. Services and activities include: developing, securing, and coordinating services; monitoring and evaluating household progress; assuring that households' rights are protected; developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance. Housing case management also includes services or activities designed to assist households in locating, obtaining, and retaining suitable housing such as: tenant counseling, assisting individuals and households to understand leases, securing utilities, making moving arrangements, representative payee services concerning rent and utilities, and mediation and outreach to property owners related to locating or retaining housing.

Services will be provided to low-income and/or homeless individuals and households residing in Whatcom County. Eligible individuals and households served shall have incomes at or below 50% Area Median Income (AMI).

#### **IV. Program Outcomes**

During each 12-month period, the housing case management services provided by Lydia Place will deliver the following outcomes:

1. Fifty-five (55) households in Permanent Supportive Housing or Rapid Rehousing programs will receive case management services
2. Thirty-five (35) currently homeless households will receive case management services
3. The contractor will strive to rapidly rehouse clients with the goal of most moving into housing in 90 days or less from enrollment in case management and with an average (mean) enrollment period of 90 days or less
4. The contractor will strive to create housing stability with the target of moving 25 households from homelessness into housing stability while preventing all case managed households in housing from becoming homeless.
5. At least two (2) chronically homeless (CH) families with children (FWC) will receiving housing subsidies funded by a special category of Consolidated Homeless Grant (CHG) funding designated specifically for permanent supportive housing for CH FWC, and at least eight (8) families will receive housing case management support funded by a special category of CHG funding specifically designated for permanent supportive housing for CH FWC.

#### **V. Additional Requirements**

The contractor will:

1. Comply with all of the State of Washington, Department of Commerce Consolidated Homeless Grant (CHG) requirements, policies and procedures in the CHG Guidelines including periodic updates to the Guidelines which can be accessed at <http://www.commerce.wa.gov/serving-communities/homelessness/consolidated-homeless-grant/>.
2. Commit to ending homeless in Whatcom County by:
  - a. Prioritizing unsheltered homeless households for services (as per CHG Guidelines).
  - b. Assessing each household's housing needs and facilitating housing stability with the goal of obtaining or maintaining permanent housing (as per CHG Guidelines).
  - c. Employing a progressive engagement service model (as per CHG Guidelines).
  - d. Prioritizing households likely to become homeless when using prevention rental assistance (as per CHG Guidelines).
3. Comply with Special Conditions of Commerce Grants incorporated herein as Exhibit E.
4. Comply with state confidentiality laws and regulations.
5. Ensure that all costs incurred comply with CHG Guidelines as specified in Section V.(1) above and Exhibit E.
6. Commit to reporting complete quality data that is timely, truthful and accurate (as per CHG Guidelines and HMIS User Agreement).
7. Consequences of non-compliance with CHG Guidelines as per the WA State Department of Commerce, include:
  - a. If Commerce determines that a Grantee is failing to comply with the 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.

- b. 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%.
  - c. 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.
- 8. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services—including deposits, rental payments, and completed home visits.
- 9. Comply with the following HIP Referral procedure. When Contractor staff believes a referral from the HIP is not a good fit for their program – a situation that should be rare - the following procedure must be followed:
  - a. Contractor will submit a written description of the situation that justifies returning the client to the HIP, and
  - b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HIP case management services coordinator (or designee).
  - c. The course of action mutually agreed to at the case conference will be recorded in writing, constituting a binding agreement.
  - d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.
- 10. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
  - a. Inform clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system
  - b. Inform Clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons.
  - c. Inform Clients/tenants that damages to their unit may result in eviction and loss of the unit in the future for our homeless housing system
  - d. Inform prospective tenants what they need to do to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing
  - e. In scattered site, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide Case managers free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated whenever requested
  - f. Document in each client file that these expectations were communicated to the client/tenant.
- 11. Require professional development training for direct service staff and supervisors.
- 12. Attend Whatcom County Coalition to End Homelessness meetings and sponsored activities.
- 13. Attend meetings and events coordinated by WHSC.

## **VI. Reporting Requirements**

1. The contractor shall submit quarterly reports\* utilizing HMIS data showing the contractor's progress toward achieving the outcomes identified above. Quarterly reports are due on April 15, July 15, October 15, and January 15. Reporting templates for case management will be posted on the Whatcom County Health Department Housing Program website which may be accessed at:

<http://www.whatcomcounty.us/DocumentCenter/View/37570/WCHDquarterlyCMreport2019LP>

\*Contractors will be notified via email of updates to quarterly reporting templates.

2. Reports will include data for only those clients served under this contract and include:
  - a. Number of homeless households that received case management during the quarter
  - b. Number of homeless individuals that received case management during the quarter
  - c. Number of households in permanent supportive housing that received case management services during the quarter
  - d. Number of households in rapid re-housing programs that received case management services during the quarter
  - e. Average length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (in RRH, PSH, or other stable housing situation)
  - f. Median length of time homeless (unsheltered, sheltered, and/or transitional housing project) in case management prior to being housed (in RRH, PSH, or other stable housing situation)
  - g. Number of case managed households that lost stable housing or exited case management while homeless
  - h. Number of case managed households that achieved housing stability while receiving case management services
  
3. Permanent Supportive Housing for Chronically Homeless Families with Children
  - a. Number of households that received housing subsidies and case management this quarter and year to date.
  - b. Number and % that retain their housing for six months.
  - c. Number of households that re-entered homelessness after receiving PSH for CH FWC subsidies.

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://whatcomcounty.us/910/Housing-Program>.

Changes to the CHG System wide 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 'Consequences of non-compliance' stated above in Section V. (7)(a-c) as per Commerce, wherein 'Grantee' refers to the County being the CHG recipient.

- a. If Commerce determines that a Grantee is failing to comply with the 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.
- b. 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%.
- c. 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.

**EXHIBIT "B" – Amendment #5  
(COMPENSATION)**

I. **Source of Funding:** The source of funding for this contract, in the amount not to exceed \$213,770, is local document recording fees and the Consolidated Homeless Grant.

II. **Allowable Cost Budget:** The 2020 budget for this 12-month contract is as follows:

<b>Cost Description</b>	<b>Documents Required Each Invoice</b>	<b>2020 Budget</b>
Personnel-Case Managers, Housing Program Supervisor	Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period	\$126,012
Program specific Supplies and Postage	GL detail	\$868
Personnel – Case Managers, Housing Program Supervisor specific to services for chronically homeless families with children	Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period	\$30,000
Rental Assistance (CHG funds) specific to chronically homeless families with children	Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment.  For Rental Assistance – itemize payee for-profit/non-profit status	\$21,560
Program specific Occupancy costs	GL detail	\$5,400
Mileage	Mileage log to include: name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, the federal reimbursement rate (per <a href="http://www.gsa.gov">www.gsa.gov</a> ), and a brief description of the purpose of travel.	\$2,700
Program specific utilities & phone	GL detail	\$5,546
Direct Service Staff 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.	\$500
Professional Services	GL detail	\$1,750
	<b>SUBTOTAL</b>	<b>\$194,336</b>
Indirect Costs*	10%	\$19,434
	<b>TOTAL</b>	<b>\$213,770</b>

Changes to the line item budget that exceed 10% of the line item must be approved in writing by the County. Indirect costs shall not exceed 10%.

**III. 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 15th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above.



2. The Contractor shall submit invoices to *(include contract/PO #)*:

Attention: Business Office – [HL-BusinessOffice@co.whatcom.wa.us](mailto:HL-BusinessOffice@co.whatcom.wa.us)  
Whatcom County Health Department  
509 Girard Street  
Bellingham, WA 98225

3. 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.

4. 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.**

5. 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 E”**

### (SPECIAL TERMS AND CONDITIONS FOR COMMERCE GRANTS)

The funds allocated for services performed under this contract 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 not liable for claims or damages arising from the Contractor's performance of this subgrant.

#### **1. ACCESS TO DATA**

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

#### **2. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the “ADA” 28 CFR Part 35**

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

#### **3. ACKNOWLEDGEMENT OF FEDERAL FUNDING**

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 the Emergency Solutions Grant awarded by the Department of Housing and Urban Development (HUD). 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."

#### **4. AUDIT**

##### **A. General Requirements**

Grantee's are to procure audit services based on the following guidelines.

The Grantee shall maintain its records and accounts so as to facilitate audits and shall ensure that Sub-grantees also maintain auditable records.

The Grantee is responsible for any audit exceptions incurred by its own organization or that of its Sub-grantees.

COMMERCE reserves the right to recover from the Grantee all disallowed costs resulting from the audit.

Responses to any unresolved findings and disallowed or questioned costs shall be included with the audit report. The Grantee must respond to COMMERCE requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

##### **B. State Funds Requirements**

In the event an audit is required, if the Grantee is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Grantee.

The Grantee shall include the above audit requirements in any sub-grants.

In any case, the Grantee's records must be available for review by COMMERCE.

**C. Federal Funds Requirements-**

Grantees expending \$750,000 or more in a fiscal year (that begins after December 26, 2014) in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with 2 CFR Part 200. For fiscal years beginning prior to December 26, 2014, Grantees are required to have an audit conducted in accordance with Federal audit requirements. When state funds are also to be paid under this Agreement a Schedule of State Financial Assistance as well as the required schedule of Federal Expenditure must also be included. Both schedules include:

Grantor agency name  
Federal agency  
Federal program name  
Other identifying contract numbers  
Catalog of Federal Domestic Assistance (CFDA) number (if applicable)  
Grantor contract number  
Total award amount including amendments (total grant award)  
Current year expenditures

If the Grantee is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Grantee in accordance with 2 CFR Part 200.

The Grantee shall include the above audit requirements in any SUBGRANTS/subcontracts. In any case, the Grantee's financial records must be available for review by COMMERCE.

**5. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

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

1. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
2. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
3. 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.

**6. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the Grantee terminate this Grant if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Grantee in the procurement of, or performance under this Grant.

In the event this Grant is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of the Grant by the Grantee. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Grant.

**7. COPYRIGHT PROVISIONS**

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.

## 8. **LAWS**

The Grantee shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended including, but not limited to:

### **Washington State Laws and Regulations**

- A. Affirmative action, RCW 41.06.020 (1).
- B. Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.
- C. Disclosure-campaign finances-lobbying, Chapter 42.17 RCW.
- D. Discrimination-human rights commission, Chapter 49.60 RCW.
- E. Ethics in public service, Chapter 42.52 RCW.
- F. Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.
- G. Open public meetings act, Chapter 42.30 RCW.
- H. Public records act, Chapter 42.56 RCW.
- I. State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

## 9. **NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Grant, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further Grants with COMMERCE. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

## 10. **POLITICAL ACTIVITIES**

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

## 11. **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.

**12. 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.

**13. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

**14. RIGHT OF INSPECTION**

The Grantee shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

**15. 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, suit, 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 the State 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.