

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.
COUNTY COURTHOUSE
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038
(360) 778-5010



COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

WHATCOM COUNTY COUNCIL

**COMBINED
AGENDA PACKET FOR
APRIL 26, 2022**

**INCLUDES INFORMATION
FOR THE FOLLOWING MEETINGS:**

**9:30 A.M. – CLIMATE ACTION AND NATURAL RESOURCES COMMITTEE
(ADJOURNS BY 10:10 A.M.)**

**10:15 A.M. - FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
(ADJOURNS BY 12:10 P.M.)**

**1:10 P.M. – PUBLIC WORKS AND HEALTH COMMITTEE
(ADJOURNS BY 1:55 P.M.)**

**2 P.M. – CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
(ADJOURNS BY 2:45 P.M.)**

**2:50 P.M. – PLANNING AND DEVELOPMENT COMMITTEE
(ADJOURNS BY 3:35 P.M.)**

**3:40 P.M. – COMMITTEE OF THE WHOLE
(ADJOURNS BY 4:40 P.M.; MAY BEGIN EARLY)**

6 P.M. - COUNCIL

PARTICIPATE IN COUNCIL HYBRID MEETINGS

**THE COUNCIL IS CURRENTLY HOLDING MEETINGS IN HYBRID FORMAT WITH
OPTIONS FOR IN-PERSON OR REMOTE VIEWING AND PARTICIPATION. FOR
INSTRUCTIONS ON HOW TO WATCH OR PARTICIPATE IN THE COUNCIL'S
MEETINGS, VISIT [WHATCOMCOUNTY.US/JOINVIRTUALCOUNCIL](https://whatcomcounty.us/joinvirtualcouncil) OR CONTACT
THE COUNCIL OFFICE AT 360.778.5010**

COMMITTEE AGENDAS

COUNCIL CLIMATE ACTION AND NATURAL RESOURCES COMMITTEE
9:30 A.M. TUESDAY, April 26, 2022 (ADJOURNS BY 10:10 A.M.)
Hybrid Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

SPECIAL PRESENTATION

1. AB2022-255 Whatcom County Forestry Advisory Committee - industry update and committee engagement
Pages 12 – 13

Items Added by Revision

Other Business

Adjournment

COUNCIL FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE
10:15 A.M. TUESDAY, April 26, 2022 (ADJOURNS BY 12:10 P.M.)
Hybrid Meeting

Call To Order

Roll Call

Announcements

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SPECIAL PRESENTATION

1. AB2022-249 Report from the Facilities Department
Page 14

COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL

1. AB2022-193 Resolution authorizing the County Executive to sign the Black Slough Comprehensive Barrier Removal Design Project grant application to the Brian Abbott Fish Barrier Removal Board (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 15 – 19
2. AB2022-215 Ordinance amending the project budget for the Swift Creek Capital Projects Fund, request no. 1
Pages 20 – 25

3. AB2022-217 Resolution amending the Flood Control Zone District & Subzones 2022 budget, request no. 2, in the amount of \$110,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 26 – 30
4. AB2022-219 Ordinance amending the project budget for the Way Station Project Fund, request No. 1
Pages 31 – 35
5. AB2022-225 Ordinance amending the 2022 Whatcom County Budget, request no. 7, in the amount of \$6,246,353
Pages 36 – 68
6. AB2022-244 Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$272,196
Pages 69 – 103

Council "Consent Agenda" Items

1. AB2022-208 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Regional Council for the provision of nursing services for the jail and work center, increasing the original contract by \$153,350.00 for the balance of 2022
Pages 104 – 109
2. AB2022-212 Request authorization for the County Executive to enter into a grant agreement between Whatcom County and Washington State Dept of Commerce for the Way Station in the amount of \$4,000,000
Pages 110 – 142
3. AB2022-230 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Office of the Attorney General for Sexual Assault Kit Initiative Grant, in the amount of \$3,000.00
Pages 143 – 160
4. AB2022-233 Request approval for the Executive to enter into a contract between Whatcom County and Taylor Driving Schools to provide Class-A Commercial Driver License (CDL) training to Public Works Maintenance and Operations employees, in the amount of \$60,000
Pages 161 – 179
5. AB2022-234 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide case management and supportive services to individuals and households experiencing or at-risk of experiencing homelessness in the amount of \$56,801 for a total amended contract amount of \$585,237
Pages 180 – 192
6. AB2022-242 Request authorization for the County Executive to enter into a contract between Whatcom County and Bird's Eye Medical to provide COVID-19 vaccine administration services at community vaccine clinics, in an estimated amount not to exceed \$140,000
Pages 193 – 229
7. AB2022-243 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham to provide funding for the Alternative Response Team pilot program, in an amount not to exceed \$161,917 in 2022 and \$259,210 in 2023
Pages 230 – 236

8. AB2022-245 Request authorization for the County Executive to enter into a contract between Whatcom County and Pacific Security to provide Courthouse Screening Services, in the amount of \$109,500
Pages 237 – 262
9. AB2022-246 Request authorization for the County Executive to enter into a contract between Whatcom County and Lighthouse Mission Ministries to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$117,611
Pages 263 – 297
10. AB2022-247 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Vernon Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$7,108.85
Pages 298 – 307
11. AB2022-248 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Sedro-Woolley Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$6,669.71
Pages 308 – 317
12. AB2022-250 Request authorization for the County Executive to enter into a contract between Whatcom County and Northwest Youth Services to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$140,612
Pages 318 – 353

Items Added by Revision

Other Business

Adjournment

COUNCIL PUBLIC WORKS AND HEALTH COMMITTEE
1:10 P.M. TUESDAY, April 26, 2022 (ADJOURNS BY 1:55 P.M.)
Hybrid Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

SPECIAL PRESENTATION

1. AB2022-103 Presentation of Phase 1 Report of COVID-19 Pandemic Response Review project
Pages 354 – 355

COMMITTEE DISCUSSION

1. AB2022-238 Discussion of a resolution vacating a portion of Wynn Road
Pages 356 – 373

Items Added by Revision

Other Business

Adjournment

COUNCIL CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE
2:00 P.M. TUESDAY, April 26, 2022 (ADJOURNS BY 2:45 P.M.)
Hybrid Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

COMMITTEE DISCUSSION

1. AB2022-159 Discussion and update on the progress and next steps for the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)
Page 374

COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL

1. AB2022-256 Resolution amending the membership of the Stakeholder Advisory Committee for the Justice Project
Pages 375 – 383

Items Added by Revision

Other Business

Adjournment

COUNCIL PLANNING AND DEVELOPMENT COMMITTEE
2:50 P.M. TUESDAY, April 26, 2022 (ADJOURNS BY 3:35 P.M.)
Hybrid Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

SPECIAL PRESENTATION

1. AB2022-235 Presentation by Planning and Development Services on the life cycle of a permit
Page 384

Items Added by Revision

Other Business

Adjournment

COUNCIL COMMITTEE OF THE WHOLE
3:40 P.M. TUESDAY, April 26, 2022 (ADJOURNS BY 4:40 P.M.; MAY BEGIN EARLY)
Hybrid Meeting

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

COMMITTEE DISCUSSION

1. AB2022-251 Discussion of proposed resolution establishing priorities for Whatcom County's 2025 Comprehensive Plan update
Pages 385 – 393

COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL

1. AB2022-224 Ordinance amending WCC 2.123.040 Membership - Term of Office for the Forestry Advisory Committee
Pages 394 – 399

Items Added by Revision

Other Business

Adjournment

COUNTY COUNCIL

REGULAR COUNCIL MEETING
6:00 P.M. TUESDAY, April 26, 2022
Hybrid Meeting

CALL TO ORDER

ROLL CALL

FLAG SALUTE

ANNOUNCEMENTS

The Council is currently holding meetings in hybrid format with options for in-person or remote viewing and participation. For instructions on how to watch or participate in the Council's meetings, visit us at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010.

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

The County is accepting applications from county residents to fill vacancies on several boards, commissions, and committees spanning a wide range of important local issues. For more information, visit the Boards and Commissions vacancies webpage on the County website or call the County Council Office or County Executive's Office.

COUNTY EXECUTIVE'S REPORT

MINUTES CONSENT

1. MIN2022-026 Committee of the Whole Executive Session for April 12, 2022
Pages 400 – 403
2. MIN2022-027 Committee of the Whole for April 12, 2022
Pages 404 – 407
3. MIN2022-028 Regular County Council for April 12, 2022
Pages 408 – 426
4. MIN2022-029 Water Work Session for April 19, 2022
Pages 427 – 431

PUBLIC HEARINGS

For instructions on how to participate at a public hearing, please visit, www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010. Council will accept comments from in-person participants first, followed by comments from remote participants. All speakers should state their name for the record and optionally include city of residence. Speakers will be given three minutes to address the Council. Council staff will keep track of time limits and inform speakers when they have reached their three minute limit.

1. AB2022-206 Ordinance relating to the Growth Management Act, adopting regulations for forest practices, adding a new Whatcom County Code Chapter 20.76, and amending Chapter 20.80
Pages 432 – 523
2. AB2022-214 Ordinance adopting amendments to the Whatcom County Comprehensive Plan relating to capital facilities planning
Pages 524 – 539

3. AB2022-221 Ordinance amending Whatcom County Code Section 16.50.090 to incorporate changes to the C-PACER Program adopted by the state legislature in RCW 36.165.060
Pages 540 – 547

OPEN SESSION (20 MINUTES)

During open session, audience members may speak to the council on issues not scheduled for public hearing. To participate, please see instructions at www.whatcomcounty.us/joinvirtualcouncil or contact the Council Office at 360.778.5010. Council will accept comments from in-person participants first, followed by comments from remote participation. All speakers should state their name for the record and optionally include city of residence. Speakers will be given three minutes to address the Council. Council staff will keep track of time limits and inform speakers when they reached their three minute limit.

CONSENT AGENDA

Items under this section of the agenda may be considered in a single motion. Councilmembers have received and studied background material on all items. Committee review has taken place on these items, as indicated. Any member of the public, administrative staff, or council may ask that an item be considered separately.

(From Council Finance and Administrative Services Committee)

1. AB2022-208 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Regional Council for the provision of nursing services for the jail and work center, increasing the original contract by \$153,350.00 for the balance of 2022
Pages 104 – 109
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12. AB2022-250 Request authorization for the County Executive to enter into a contract between Whatcom County and Northwest Youth Services to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$140,612
Pages 318 – 353

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. AB2022-215 Ordinance amending the project budget for the Swift Creek Capital Projects Fund, request no. 1
Pages 20 – 25
2. AB2022-219 Ordinance amending the project budget for the Way Station Project Fund, request No. 1
Pages 31 – 35
3. AB2022-225 Ordinance amending the 2022 Whatcom County Budget, request no. 7, in the amount of \$6,246,353
Pages 36 – 68
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Pages 69 – 103
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Pages 15 – 19

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Pages 26 – 30

(From Council Criminal Justice and Public Safety Committee)

7. AB2022-256 Resolution amending the membership of the Stakeholder Advisory Committee for the Justice Project
Pages 375 – 383

(From Council Committee of the Whole)

8. AB2022-224 Ordinance amending WCC 2.123.040 Membership - Term of Office for the Forestry Advisory Committee
Pages 394 – 399

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2022-229 Appointment to a vacancy on the Acme / VanZandt Flood Control Subzone Advisory Committee, Applicant(s): Valerie Lloyd (Council acting as the Flood Control Zone District Board of Supervisors)
Pages 548 – 549
2. AB2022-209 Appointment to a vacancy on the Board of Equalization, at-large alternate position - applicant(s) W. Thomas Follis
Pages 550 – 553
3. AB2022-240 Appointment to a vacancy on the Board of Equalization, District 3 position - applicant(s) David Simpson
Pages 554 – 555
4. AB2022-254 Appointment to a vacancy on the Board of Equalization, District 5 position - applicant(s) James Day
Pages 556 – 563

ITEMS ADDED BY REVISION

INTRODUCTION ITEMS

Council action will not be taken. The council may accept these items for introduction (no action) in a single motion. Changes, in terms of committee assignment for example, may be made at this time.

1. AB2022-231 Appointment to a vacancy on the Board of Supervisors for Drainage Improvement District #7, Position 3, to serve a partial term until the next election in February 2024 - Applicant(s): Rodney Stump (deadline for additional applications for this position is 10 a.m., May 3, 2022)
Pages 564 – 568
2. AB2022-232 Appointment to a vacancy on the Board of Commissioners for Drainage District #3, Position 1, to serve a partial term until the next election in February 2024 - Applicant(s): Roger Blok (Deadline for additional applications for these positions is 10 a.m., May 3, 2022)
Pages 569 – 573

3. AB2022-241 Appointment to a vacancy on the Board of Supervisors for Consolidated Drainage Improvement District #20, Position 1, to serve a partial term until the next election in February 2024 - Applicant(s): Rodney Vande Hoef (deadline for additional applications for this position is 10 a.m., May 3, 2022)
 Pages 574 – 576

4. AB2022-239 Resolution vacating a portion of Wynn Road
 Pages 577 – 594

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCIL MEMBER UPDATES

ADJOURN



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-255

File ID:	AB2022-255	Version:	1	Status:	Agenda Ready
File Created:	04/19/2022	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Presentation		
Assigned to:	Council Climate Action and Natural Resources Committee				Final Action:
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: KGallowa@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Whatcom County Forestry Advisory Committee - industry update and committee engagement

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments:

Call To Order

Roll Call

Announcements

Individuals who require special assistance to participate in the Council's meetings are asked to contact the Council Office at 360.778.5010 at least 96 hours in advance.

Special Presentation

1. [AB2022-249](#) Report from the Facilities Department

Committee Discussion and Recommendation to Council

1. [AB2022-193](#) Resolution authorizing the County Executive to sign the Black Slough Comprehensive Barrier Removal Design Project grant application to the Brian Abbott Fish Barrier Removal Board (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
2. [AB2022-215](#) Ordinance amending the project budget for the Swift Creek Capital Projects Fund, request no. 1
3. [AB2022-217](#) Resolution amending the Flood Control Zone District & Subzones 2022 budget, request no. 2, in the amount of \$110,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
4. [AB2022-219](#) Ordinance amending the project budget for the Way Station Project Fund, request No. 1
5. [AB2022-225](#) Ordinance amending the 2022 Whatcom County Budget, request no. 7, in the amount of \$6,246,353
6. [AB2022-244](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$272,196

Council "Consent Agenda" Items

1. [AB2022-208](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Regional Council for the provision of nursing services for the jail and work center, increasing the original contract by \$153,350.00 for the balance of 2022



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-249

File ID:	AB2022-249	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	AReynold@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: rney@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Report from the Facilities Department

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-193

File ID:	AB2022-193	Version:	1	Status:	Introduced
File Created:	03/17/2022	Entered by:	AKell@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution authorizing the County Executive to sign the Black Slough Comprehensive Barrier Removal Design Project grant application to the Brian Abbott Fish Barrier Removal Board (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Approval is requested for a resolution that authorizes the County Executive, acting on behalf of the Whatcom County Flood Control Zone District, to submit a grant application to the Brian Abbott Fish Barrier Removal Board (BAFBRB)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Staff memo, Proposed resolution

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Jon Hutchings
Director**





NATURAL RESOURCES

322 N. Commercial, Suite 210
Bellingham, WA 98225
Telephone: (360) 778-6230
FAX: (360) 778-6231
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Members of the Whatcom County Council Acting as the Flood Control Zone District Board of Supervisors, and
Satpal Singh Sidhu, County Executive for the Whatcom County Flood Control Zone District

THROUGH: Jon Hutchings, Public Works Director

FROM: Gary Stoyka, Natural Resources Manager 
John N. Thompson, Senior Salmon Recovery Planner 

DATE: March 17, 2022

RE: Resolution Authorizing the Black Slough Comprehensive Barrier Removal Design Project Grant Application to the Brian Abbott Fish Barrier Removal Board

Requested Action

Approval is requested for a resolution that authorizes the County Executive, acting on behalf of the Whatcom County Flood Control Zone District, to submit a grant application to the Brian Abbott Fish Barrier Removal Board (BAFBRB).

Background and Purpose

Whatcom County Public Works has prepared a grant application for the Brian Abbott Fish Barrier Removal Board's 2023-2025 grant cycle. An authorizing resolution from the applicant's governing body is a required grant application attachment.

The resolution authorizes the Whatcom County Executive, acting on behalf of the Flood Control Zone District Board of Supervisors, to submit an application and enter into a grant agreement should funding be awarded. The project will support design and permits for the replacement of seven culverts that are partial barriers to fish passage under county roads in the Black Slough area of the South Fork Nooksack River northeast of Acme. This area was selected due to the recent County acquisition and restoration planning for land in the project area, the South Fork is a current Drainage-Based Management pilot area, Black Slough's importance as a source of cool and steady flow to the South Fork that benefits early Chinook recovery efforts, and the opportunity to address the remaining County road barrier culverts in the Black Slough stream system.

Funding Amount and Source

The grant request is for \$255,500 with \$85,000 in local match for a total amount of \$340,500 to be requested in 2023 and 2024 Public Works budgets. Grant funds will be available July 1, 2023 if funded by the legislature.

Please contact Gary Stoyka at extension 6218, if you have any questions or concerns regarding the terms of this agreement.

Encl.

RESOLUTION NO. 2022-

AUTHORIZATION FOR APPLICATION TO THE BRIAN ABBOTT FISH BARRIER REMOVAL BOARD – BLACK SLOUGH COMPREHENSIVE BARRIER REMOVAL DESIGN

Organization Name (sponsor): Whatcom County Flood Control Zone District

Project Number and Name(s): RCO No. 21-1536 – Black Slough Comprehensive Barrier Removal Design

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council acting as the Whatcom County Flood Control Zone District Board of Supervisors that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above “Project.”
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Satpal Singh Sidhu, Whatcom County Executive
Project contact (day-to-day administering of the grant and communicating with the RCO)	John N. Thompson, Senior Salmon Recovery Planner Whatcom County Public Works
RCO Grant Agreement (Agreement)	Satpal Singh Sidhu, Whatcom County Executive
Agreement amendments	Satpal Singh Sidhu, Whatcom County Executive
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	Satpal Singh Sidhu, Whatcom County Executive

The above persons are considered an “authorized representative(s)/agent(s)” for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office’s WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf> . We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such

terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.

4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.

5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.

6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.

7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.

8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.

9. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.

10. This resolution/authorization is deemed to be part of the formal grant application to the Office.

11. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

APPROVED this _____ day of _____, 2022

ATTEST:

**WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT
WHATCOM COUNTY, WASHINGTON**

Dana Brown Davis, Clerk of the Council

Todd Donovan, Chairman
Whatcom County Council on behalf of the
Whatcom County Flood Control Zone District

APPROVED AS TO FORM:

Christopher Quinn by Akell 3/17/2022
Christopher Quinn, Senior Civil Deputy Prosecuting Attorney

On File
at: _____

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):
Location: _____ Date: _____

Washington State Attorney General's Office

Approved as to form Brian Stallen 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-215

File ID:	AB2022-215	Version:	1	Status:	Introduced
File Created:	03/29/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending the project budget for the Swift Creek Capital Projects Fund, request no. 1

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests appropriation of \$2,041,000 to fund continued design of project elements and the first phase of significant capital construction for a total project budget of \$7,258,159.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Staff Memo, Proposed Ordinance, Supplemental Budget Request



MEMORANDUM

To: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and
The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: James P. Karcher, P.E., County Engineer
James E. Lee, P.E., Engineering Manager

Date: March 28, 2022

Subject: **Sumas Mountain/Swift Creek Sediment Management Project**
Ordinance Amending the Swift Creek Capital Projects Fund and Project
Based Budget

Requested Action

Enclosed for your review and approval is an ordinance amending the Swift Creek Capital Projects Fund and project based budget.

Background and Purpose

Ordinance No. 2020-010 established the Swift Creek Capital Projects Fund, granting expenditure authority to initiate the multi-year Sumas Mountain/Swift Creek Sediment Management Project with \$6.4 million of grant funds from the state. Since that time the Washington State Legislature, in the 2021-23 budget, awarded Whatcom County an additional appropriation totaling \$2.041 million for this same project to be distributed by the Department of Ecology (Ecology) and administered under our existing no match grant. These additional state funds are required to continue design of project elements and to fund the first phase of significant capital construction, scheduled to be completed in the summer of 2022.

Funding Amount and Source

This ordinance will amend the Swift Creek Capital Projects Fund with an additional \$2,041,000 of state funds that when added to the \$5,217,159 established in the original project based budget provides a new total budget of \$7,258,159.

Please contact James Lee at extension 6264 if you have any questions or concerns regarding this request.

ORDINANCE NO. _____

**ORDINANCE AMENDING THE PROJECT BASED BUDGET FOR THE SWIFT CREEK
CAPITAL PROJECTS FUND, REQUEST NO. 1**

WHEREAS, Ordinance No. 2020-010 established the Swift Creek Capital Projects Fund, granting expenditure authority to initiate the multi-year Sumas Mountain/Swift Creek Sediment Management Project with \$6.4 million of grant funds from the state; and

WHEREAS, the Washington State Legislature, in the 2021-23 budget, has awarded Whatcom County additional appropriations totaling \$2.041 million for this same project, to be distributed by the Department of Ecology (Ecology) and administered under our existing no match grant; and

WHEREAS, these additional state funds are required to continue design of project elements and to fund the first phase of significant capital construction, scheduled to be completed in the summer of 2022; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance No. 2020-010 is hereby amended adding \$2,041,000 of expenditure authority, as described in Exhibit A, to the project budget total of \$5,217,159 for a new total of \$7,258,159.

ADOPTED this ____ day of _____, 2022.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan,
Chair of the Council

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Christopher Quinn
Senior Deputy Prosecuting Attorney
Civil Division

Satpal Singh Sidhu
County Executive

Date Signed: _____

EXHIBIT A

SWIFT CREEK CAPITAL PROJECTS FUND (FUND 384)

Account	Description	Current	Amendment #1	Total Amended
	Expenditures	<u>Project Budget</u>	<u>to Ord. 2020-010</u>	<u>Project Budget</u>
6630	Professional Services	\$ 915,000	\$ 540,000	\$ 1,455,000
6699	Other Services-Interfund	\$ 150,000	\$ 300,000	\$ 450,000
7320	Land	\$ 1,900,000		\$ 1,900,000
7380	Other Improvements	\$ 2,252,159	\$ 1,201,000	\$ 3,453,159
		\$ 5,217,159	\$ 2,041,000	\$ 7,258,159

	Revenues			
4334.0311	Department of Ecology Grant	\$ 5,217,159	\$ 2,041,000	\$ 7,258,159
		\$ 5,217,159	\$ 2,041,000	\$ 7,258,159

	Grant Funds	
2019-2021 State Biennium	\$ 1,182,841	Spent Prior to Project Budget
2019-2021 State Biennium	\$ 5,217,159	Allocated during Project Budget creation
2021-2023 State Biennium	\$ 2,041,000	Requested with Amendment #1
	\$ 8,441,000	Total State Grant Award

Supplemental Budget Request

Status: Pending

Public Works

Engineering Bridge & Hydraulic

Suppl ID # 3634

Fund 384

Cost Center 384100

Originator: James Lee

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Swift Creek Project Based Budget Amendment #1

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4334.0311	CZM-FCCAP Grant	(\$2,041,000)
	6630	Professional Services	\$540,000
	6699	Other Services-Interfund	\$300,000
	7380	Other Improvements	\$1,201,000
	Request Total		\$0

1a. Description of request:

A large landslide in the upper watershed of Swift Creek located on the west flanks of Sumas Mountain contains naturally occurring asbestos (NOA) which poses a risk to human health and the environment. In 2019 Whatcom County and the Department of Ecology (Ecology) entered into a Consent Decree which provides the framework for collaboration between Whatcom County and Ecology for mitigating the impacts of Swift Creek sedimentation and NOA. A part of the Consent Decree is the Swift Creek Action Plan which includes various project elements including deflection berms, sediment traps, sediment basins and other misc. improvements that when fully constructed will help to mitigate the impacts caused by Swift Creek sedimentation and NOA. To date, the Washington State Department of Ecology has appropriated \$8.4 million dollars of State funds for work on this project.

This supplement budget request, which will add an additional \$2,041,000 of State funds into project based budget for the Swift Creek Capital Projects fund, will provide for continued design of various project elements and more significantly the first round of significant capital construction located east of Goodwin Road. This work will include construction of the first three sediment traps, phase one of the upper deflection berm and other ancillary improvements.

1b. Primary customers:

General public and residents of the greater Swift Creek and Sumas River floodplains.

2. Problem to be solved:

The intent of the Swift Creek Action Plan is to mitigate the impacts of the Swift Creek sedimentation and NOA to human health and the environment. Once fully constructed the Swift Creek Action Plan will achieve this goal.

3a. Options / Advantages:

An Environmental Impact Statement was completed in 2013 which considered a suit of options for addressing Swift Creek sedimentation and NOA. After thorough review the current Swift Creek Action Plan was deemed to be the most feasible approach.

3b. Cost savings:

N/A

4a. Outcomes:

The outcome of this project will be the eventual construction of all the project elements included in the Swift Creek Action Plan. The current overall schedule for this project shows completion of all the project

Supplemental Budget Request

Status: Pending

Public Works

Engineering Bridge & Hydraulic

Suppl ID # 3634

Fund 384

Cost Center 384100

Originator: James Lee

elements in 2028. The ability for Whatcom County to complete the Swift Creek Action Plan will be dependent upon the continued availability of State funding.

4b. Measures:

The Swift Creek Action Plan will be constructed.

5a. Other Departments/Agencies:

N/A

5b. Name the person in charge of implementation and what they are responsible for:

James E. Lee, P.E., Program Manager for the Swift Creek Project

6. Funding Source:

Entirely State Funded



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-217

File ID:	AB2022-217	Version:	1	Status:	Introduced
File Created:	03/30/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Resolution (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution amending the Flood Control Zone District & Subzones 2022 budget, request no. 2, in the amount of \$110,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #2 requests from the Flood Control Zone District Fund:

1. To appropriate \$110,000 in Natural Resources to fund a Climate Vulnerability Assessment from grant and transfer proceeds.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Resolution, Budget summary, Supplemental Budget Request

PROPOSED BY: Public Works
INTRODUCTION DATE: 04/12/22

RESOLUTION NO. _____

(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 2 OF THE 2022 BUDGET

WHEREAS, the 2022 budget for the Whatcom County Flood Control Zone District and Subzones was adopted November 23, 2021; and,

WHEREAS, changing circumstances require modifications to the approved 2022 budget; and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the Board of Supervisors,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that the 2022 budget as approved in Resolution 2021-051 is hereby amended by adding the following additional amounts to the budgets included therein:

	Expenditures	Revenues	Net Effect
Flood Control Zone District	<u>110,000</u>	<u>(110,000)</u>	<u>-</u>
Total Supplemental	<u>110,000</u>	<u>(110,000)</u>	<u>-</u>

ADOPTED this ____ day of _____, 2022

ATTEST:

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Chair of Board of Supervisors

APPROVED AS TO FORM:

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

2022 Flood Control Zone District and Subzones Budgets Amendment #2				
		Expenditures	Revenues	Fund Balance
Flood Control Zone District				
Natural Resources	To fund Climate Vulnerability Assessment	110,000	(110,000)	-
Total Flood Control Zone District Supplemental		110,000	(110,000)	-

Supplemental Budget Request

Status: Pending

Public Works

Natural Resources

Suppl ID # 3621 Fund 169 Cost Center 169122 Originator: Gary Stoyka

Expenditure Type: One-Time Year 2 2022 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Climate Vulnerability Assessment

X



3/9/22

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4334.0021	Watershed	(\$100,000)
	6630	Professional Services	\$100,000
	7190	Other Miscellaneous	\$10,000
	8301	Operating Transfer In	(\$10,000)
	Request Total		\$0

1a. Description of request:

This SBR will provide budget authorization to implement the Whatcom Compound Flood Vulnerability & Risk Assessment and provide funding for miscellaneous climate action expenses. Whatcom County – Public Works will convene a multi-jurisdictional team to develop a Vulnerability & Risk Assessment (VRA) for Whatcom County marine and lower Nooksack riverine shorelines using Compound Flood Models. These models use sea level rise, tidal, wave, storm surge, and stream discharge data to assess vulnerability and risks exacerbated by climate change to public infrastructure and private development (assets), ecosystem functions and values (systems), and populations. This request includes budget authority to accept a \$100,000 grant and conduct the vulnerability assessment.

In 2021, the County Council approved the Whatcom County Climate Action Plan and authorized the hiring of a Climate Action Manager to develop a Climate Action Program. This request also includes \$10,000 to fund climate action related expenses that are likely to be incurred with the development of a Climate Action Program and the hiring of a Climate Action Manager.

1b. Primary customers:

Local governments and private landowners located near shorelines

2. Problem to be solved:

Climate change will greatly affect coastal areas of Whatcom County as a result of sea level rise, storm impacts, and groundwater level increases. These changes will have significant impact on public and private infrastructure located along the shoreline. Whatcom County and other local jurisdictions need to know the vulnerability of public and private infrastructure to climate change in order to properly craft policies, regulations, land use plans, infrastructure plans, maintenance plans, and mitigation plans to address projected climate impacts and build community resilience. Whatcom County has been awarded a grant to conduct such an assessment.

3a. Options / Advantages:

The County could choose to not accept the grant and either not do the vulnerability assessment at this time or do it later at County expense. The availability of grant funding and the need for this assessment makes this option the best option.

3b. Cost savings:

If this request is denied, the County will either not do the vulnerability assessment at this time or do it later at County expense. Approval of this request will save the County \$100,000 if the County chooses to do the assessment at another time at County expense. If the Council decides not to do the assessment at

Supplemental Budget Request

Status: Pending

Public Works

Natural Resources

Suppl ID # 3621

Fund 169

Cost Center 169122

Originator: Gary Stoyka

all, it will leave the County and other local governments without the tools necessary to plan for future infrastructure needs.

4a. Outcomes:

Whatcom County and other local governments will have an assessment of the vulnerability of public and private infrastructure to the impacts of climate change and allow these entities to better plan for the future.

4b. Measures:

The assessment will be completed.

5a. Other Departments/Agencies:

The climate vulnerability assessment will look at all County and private infrastructure that are susceptible to impacts from climate changes to coastal processes. This assessment will likely require involvement of the Public Works Department, Planning and Development Services Department, AS-Facilities, and Parks and Recreation Department. Other governments that have agreed to participate are the Cities of Bellingham, Blaine, and Ferndale, the Port of Bellingham, Lummi Nation and the U.S. Geological Survey

5b. Name the person in charge of implementation and what they are responsible for:

PDS - Jon-Paul Shannahan

Parks - Mike McFarlane

Facilities - Rob Ney

City of Bellingham - Seth Vidana

Port of Bellingham - Kurt Baumgarten

6. Funding Source:

Grant Funding - \$100,000

General Fund balance - \$10,000



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-219

File ID:	AB2022-219	Version:	1	Status:	Introduced
File Created:	03/30/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending the project budget for the Way Station Project Fund, request No. 1

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Requests appropriation of an additional \$5,708,388 to fund the Way Station project for a total budget of \$8,092,710.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, Supplemental Budget Request

PROPOSED BY: Executive
INTRODUCTION DATE: 04/12/22

ORDINANCE NO. _____

**ORDINANCE AMENDING THE PROJECT BASED BUDGET FOR THE WAY STATION
PROJECT FUND, REQUEST NO. 1**

WHEREAS, Ordinance No. 2022-018 established the Way Station Project Fund, granting expenditure authority of \$2,384,322 for Phase I of this project as a result of reapplying the State Street project budget funds to this endeavor, and

WHEREAS, the County has received and wishes to recognize additional funding of \$5,708,388, for the project as a whole, from a Washington State Department of Commerce grant, American Rescue Plan Act funding and individual donations,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Ordinance No. 2022-018 is hereby amended adding \$5,708,388 of expenditure authority, as described in Exhibit A, to the current project budget total of \$2,384,322 for a new total of \$8,092,710.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive
Date:_____

EXHIBIT A

WAY STATION PROJECT (FUND 394)

<u>Account</u>	<u>Description</u>	<u>Current Project Budget</u>	<u>Amendment #1 to Ord. 2022-018</u>	<u>Total Amended Project Budget</u>
Expenditures				
7350	Buildings & Structures	\$2,384,322	\$5,708,388	\$8,092,710
		\$2,384,322	\$5,708,388	\$8,092,710
Revenues				
8301.348	Op Transfer In - State St Project Budget Fund	\$2,384,322	\$0	\$2,384,322
8301.138	Op Transfer In - American Rescue Plan Act Fund	\$0	\$1,500,000	\$1,500,000
4334.0421	WA State Department of Commerce grant	\$0	\$4,000,000	\$4,000,000
4367.1000	Donations	\$0	\$208,388	\$208,388
		\$2,384,322	\$5,708,388	\$8,092,710

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3637

Fund 394

Cost Center 394100

Originator: Rob Ney

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Way Station Funding

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4334.0421	Commerce Grant	(\$4,000,000)
	4367.1000	Donations	(\$208,388)
	7350	Buildings & Structures	\$5,708,388
	8301.138	Operating Transfer In	(\$1,500,000)
	Request Total		\$0

1a. Description of request:

The purpose of this ASR is to accept all funding sources for the Way Station and to transfer this money to the Way Station Project Based Budget. This ASR accompanies the State of Washington Commerce Grant also being considered at the April 12th Council Meeting.

The Way Station is a collaborative effort with our partners Peace Health, Unity Care Northwest and the Opportunity Council and is intended to provide recuperative respite care, health care services, hygiene services and case management to unsheltered individuals. The Council approved the Amended Way Station Memorandum of Understanding for this use on January 25, 2022.

The three different funding sources that would be transferred to the Way Station Project Based Budget are as follows:

\$4,000,000 Department of Commerce Grant Local and Community Projects Program (must also accept Grant, separate action on 4/12/22)

\$1,500,000 American Rescue Act Funds

\$208,388.48 Unity Care Northwest Transfer to County, includes

\$400,000 Peace Health (less amount paid to RMC for design development effort to date)

\$50,000 First Federal Community Foundation

\$15,000 Dr. Karen Berry

\$20,000 Jerry H. Walton Foundation

\$50,000 Mt. Baker Foundation

\$10,000 Puget Sound Energy

\$5,000 Molina Health Care

\$550,000 Gross

RMC Invoices to date \$193,901.86

RMC Anticipated invoices through 4/30/22 \$147,709.66

1b. Primary customers:

The services provided are intended to serve the unsheltered population.

2. Problem to be solved:

There is a service disconnect for unsheltered individuals. The Way Station is intended to serve this

Tuesday, March 29, 2022

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3637

Fund 394

Cost Center 394100

Originator: Rob Ney

population.

3a. Options / Advantages:

This is one of many services that Whatcom County and its partners provide to the homeless population.

3b. Cost savings:

The project is being funded by several sources that are outside of the County, in addition to County funding. The external funding sources have made this project whole.

The intent is that servicing this population might save hospital space and provide services to the unsheltered population which may lead to lessening this population.

The State Street facility was built with sub-par components. Utilizing outside funding sources to complete this building renovation is a plus for the County.

4a. Outcomes:

The project should be delivered in 2023.

4b. Measures:

Once the project is complete and the community is being served.

When the project is complete and within the specified budget.

5a. Other Departments/Agencies:

N/A

5b. Name the person in charge of implementation and what they are responsible for:

Rob Ney

6. Funding Source:

Department of Commerce Grant Local and Community Projects Program

American Rescue Act Funds

Unity Care Northwest Donations



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-225

File ID:	AB2022-225	Version:	1	Status:	Introduced
File Created:	03/31/2022	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: mcaldwel@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending the 2022 Whatcom County Budget, request no. 7, in the amount of \$6,246,353

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #7 requests funding from the General Fund:

1. To appropriate \$10,000 in Non Departmental to fund support for the Climate Vulnerability Assessment.
2. To appropriate \$79,000 in Public Defender to fund increased service costs related to COVID and Blake cases from grant proceeds.
3. To appropriate \$100,000 in Parks to fund Lookout Mountain repairs from FEMA grant proceeds and Real Estate Excise Tax II Fund transfer.
4. To re-appropriate \$123,536 in Sheriff to fund Operation Stonegarden FFY19 program from grant proceeds.
5. To appropriate \$9,292 in Sheriff to fund stop stick acquisition.
6. To appropriate \$3,000 in Sheriff to fund refrigeration unit acquisition from grant proceeds.

From the Whatcom County Jail Fund:

7. To appropriate \$153,350 to fund Northwest Regional Council nursing service wage increase.

From the Homeless Housing Fund:

8. To appropriate \$97,000 to fund housing support services expansion.
9. To appropriate \$1,500,000 to fund increased housing program services from Emergency Shelter Grant proceeds.

From the Real Estate Excise Tax II Fund:

10. To appropriate \$398,686 to fund transfers in support of Hovander Park and Lookout Mountain flood repairs.

From the Public Utilities Improvement Fund:

11. To re-appropriate \$3,475,500 for EDI loans and grants for Port of Bellingham's Rural Broadband Project, Bellingham Housing Authority's Samish Way Project, and City of Lynden's Front Street Project.

From the Administrative Services Fund:

12. To appropriate \$40,000 in Facilities to fund increase in security screening services contract for the Courthouse.
13. To appropriate \$176,682 in Finance to fund increased staffing (2 FTEs) in support of the JD Edwards financial system upgrade from a project budget transfer.
14. To appropriate \$80,807 in Finance to fund a new Senior Purchasing Coordinator position.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED	Council Finance and Administrative Services Committee

Attachments: Proposed Ordinance, Budget Summary, Supplemental Requests

**ORDINANCE NO.
AMENDMENT NO. 7 OF THE 2022 BUDGET**

WHEREAS, the 2021-2022 budget was adopted November 24, 2020; and,

WHEREAS, changing circumstances require modifications to the approved 2021-2022 budget;
and,

WHEREAS, the modifications to the budget have been assembled here for deliberation by the
Whatcom County Council,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2021-2022
Whatcom County Budget Ordinance #2020-068 is hereby amended by adding the following additional
amounts to the 2022 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Non Departmental	10,000	-	10,000
Public Defender	79,000	(104,595)	(25,595)
Parks	100,000	(100,000)	-
Sheriff	135,828	(137,688)	(1,860)
Total General Fund	324,828	(342,283)	(17,455)
Whatcom County Jail Fund	153,350	-	153,350
Homeless Housing Fund	1,597,000	(1,500,000)	97,000
Real Estate Excise Tax II Fund	398,686	-	398,686
Public Utilities Improvement Fund	3,475,000	-	3,475,000
Administrative Services Fund	297,489	(176,682)	120,807
Total Supplemental	6,246,353	(2,018,965)	4,227,388

BE IT FURTHER ORDAINED by the Whatcom County Council that Exhibit C – Position Control Changes in the 2021 – 2022 Budget Ordinance should also be amended to provide for the following FTE changed in Administrative Services – Finance Division:

- Budget Analyst
- Assistant Finance Manager
- Senior Purchasing Coordinator

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied

Approved by email/C Quinn/M Caldwell
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date: _____

WHATCOM COUNTY				
Summary of the 2022 Supplemental Budget Ordinance No. 7				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Non Departmental	To fund General Fund support for Climate Assessment.	10,000	-	10,000
Public Defender	To fund increased service costs related to COVID from grant proceeds.	73,000	(73,000)	-
Public Defender	To fund Blake case-related costs from grant proceeds.	6,000	(31,595)	(25,595)
Parks	To fund Lookout Mountain road repairs from grant proceeds and REET II transfer.	100,000	(100,000)	-
Sheriff	To re-appropriate funding for Operation Stonegarden FFY 19 program.	123,536	(134,688)	(11,152)
Sheriff	To fund stop stick acquisition.	9,292	-	9,292
Sheriff	To fund refrigeration unit from grant proceeds.	3,000	(3,000)	-
Total General Fund		324,828	(342,283)	(17,455)
Whatcom County Jail Fund	To fund Northwest Regional Council nursing service wage increase.	153,350	-	153,350
Homeless Housing Fund			-	-
Health	To fund housing support services expansion.	97,000	-	97,000
Health	To fund increased housing program services from Emergency Shelter Grant increase.	1,500,000	(1,500,000)	-
Total Homeless Housing Fund		1,597,000	(1,500,000)	97,000
Real Estate Excise Tax II Fund				
Parks	To fund transfer to fund Hovander Park flood repairs.	345,686	-	345,686
Parks	To fund transfer to fund Lookout Mountain road repairs.	53,000	-	53,000
Total Real Estate Excise Tax II Fund		398,686	-	398,686
Public Utilities Improvement Fund				
Non Departmental	To re-appropriate funding for 2021 EDI grant for Port of Bellingham Rural Broadband project.	750,000	-	750,000
Non Departmental	To re-appropriate funding for 2021 EDI loan for Bellingham Housing Authority Samish Way project.	725,000	-	725,000
Non Departmental	To re-appropriate funding for 2021 EDI loan/grant for City of Lynden Front Street project.	2,000,000	-	2,000,000
Total Public Utilities Improvement Fund		3,475,000	-	3,475,000
Administrative Services Fund				
Facilities	To fund increase in security screening services contract for the Courthouse.	40,000	-	40,000
Finance	To fund increased staffing in support of JD Edwards upgrade from project budget transfer.	176,682	(176,682)	-
Finance	To fund new Senior Purchasing Coordinator position.	80,807	-	80,807
Total Administrative Services Fund		297,489	(176,682)	120,807
Total Supplemental		6,246,353	(2,018,965)	4,227,388

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3643

Fund 1

Cost Center 4530

Originator: M Caldwell

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: General Fund support for Climate Assessment

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351.169117	Operating Transfer Out	\$10,000
	Request Total		\$10,000

1a. Description of request:

Companion supplementals to Natural Resources Suppl ID #3621 Climate Vulnerability Assessment. This \$10,000 transfer will fund climate action related expenses that are likely to be incurred with the development of a Climate Action Program and the hiring of a Climate Action Manager.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3617

Fund 1

Cost Center 2674

Originator: Julie Wiles

Expenditure Type: One-Time Year 2 2022 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Covid Increased Service Costs OPD grant

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.1675	Coronavirus Emerg Supp Fds	(\$73,000)
	6120	Extra Help	\$37,800
	6510	Tools & Equip	\$10,200
	6650	Ct Eval/Investigations	\$25,000
	Request Total		\$0

1a. Description of request:

This proposal is a request to utilize grant funding from the Office of Public Defense for additional and necessary expenses related to the representation of clientele referred to our department. We would like to be able to hire temp extra help attorneys on a temporary hourly basis, to assist with first appearance hearings. We will also utilize these funds to possibly pay for expert services attributable to the Covid-19 pandemic as well as purchasing computers and scanners. This request is grant funded and will not impact the general fund.

1b. Primary customers:

The primary customers are indigent defendants in the Whatcom County Superior and District Courts.

2. Problem to be solved:

This request addresses the increased work load the exceedingly high case loads the regular FTE attorneys and staff are handling due to Covid-19, while at the same time representing our clientele in first appearance hearings that are referred to our office by the Courts. Our department constantly strives to stay within the State Standards of Public Defense by ensuring our regular FTE attorneys do not represent more clientele than what the State Standards indicate are acceptable.

Our department has noticed an increase in the seriousness of offenses regarding our currently assigned case loads. This year we are budgeted for \$68,000.00 for professional services and so far this year we expect to exceed our budgeted amount by possibly \$25,000.00 due to the experts we have already retained. During the first 2.5 months we have already planned to expend over \$30,000.00 for professional services. We propose to utilize some of this grant fund to cover any professional services expenses should we run out of our budgeted amount.

We also will need to purchase two laptops (and related software licenses) and two scanners for our department.

3a. Options / Advantages:

The only other option is to assign the regular staff attorneys to represent clientele in First Appearance Hearings and this will drive up the case limits the attorneys have with regard to the State Standards. We would also need to possibly ask the County Council for more funding for expert services, from the General Fund, in order to cover our projected professional services lapse.

3b. Cost savings:

Our department will operate with more efficiently. Having this attorney assigned to conduct First

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3617

Fund 1

Cost Center 2674

Originator: Julie Wiles

Appearance Hearings will help ensure the regular full time attorneys will be able to concentrate on their assigned criminal cases and hopefully stay within State Standards. In addition, our attorneys will be able to hire the expert professional services necessary for the serious caseloads we currently have.

4a. Outcomes:

Granting this request will allow our department to focus on ensuring (to the extent possible) that the criminal referrals we are assigned, will be handled according to State Standards of Public Defense.

4b. Measures:

Granting this request will help to ensure we continue to receive grant funds from the Office of Public Defense (as we have to stay within State Standards in order to continue receiving funding from other grants such as the 10.101 funds). In addition, granting this request will have a very positive impact on staff morale.

5a. Other Departments/Agencies:

Granting this request will have a positive impact on the Courts and the Prosecuting Attorney's Office. The Courts and the P.A's office have developed a working relationship with the person currently handling our First Appearances and this has had a positive impact on our department.

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

This request is funded by the Office of Public Defense CESF grant for 2022.

Supplemental Budget Request

Status: Pending

Public Defender

Suppl ID # 3625

Fund 1

Cost Center 2673

Originator: Julie Wiles

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: OPD Blake grant extension for 2022

X



Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4334.0124	Public Defense	(\$31,595)
	6510	Tools & Equip	\$6,000
	Request Total		(\$25,595)

1a. Description of request:

The Whatcom County Public Defender's Office received grant funding from the Washington State Office of Public Defense in the amount of \$41,506.00, in June of 2021, for the purpose of representing individuals seeking to obtain orders to vacate felony convictions or have felony resentencing pursuant to State v. Blake, 481 P.3d 521 (2021). This subject grant has been extended for use until 12/31/22. We currently have \$31,595.00 left to use for 2022 and seek authority to continue utilizing these funds in order to bill this grant for the time that at least three staff members, whose FTE positions are already budgeted for, under the general fund this year, work on subject grant related tasks. We would also like to purchase computers and scanners with a portion of these funds.

1b. Primary customers:

Clientele seeking to obtain orders to vacate felony convictions or have felony resentencing pursuant to State v. Blake.

2. Problem to be solved:

This plan will allow our department to bill this grant for those current FTE's who are already working on Blake matters and to purchase needed equipment for staff members working on Blake related matters.

3a. Options / Advantages:

OPD has already granted this funding. We only require permission to use these funds. We are overloaded with Blake case related tasks, and need to purchase computer equipment.

3b. Cost savings:

The cost savings for the County for 2022, could come to \$31,595.00.

4a. Outcomes:

With this additional funding, the Public Defender's Office will create salary savings and allow the department to purchase equipment that will help us process cases more efficiently.

4b. Measures:

Granting this supplemental request will allow our department to attempt to stay within State Standards of Public Defense and contribute to better staff retention and morale.

5a. Other Departments/Agencies:

Granting this request will support adequate staffing to timely process Blake cases.

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

The Washington State Office of Public Defense is the sole source of the funding for this request.

Friday, March 18, 2022

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Parks & Recreation

Suppl ID # 3639

Fund 1

Cost Center 6352

Originator: Christ Thomsen

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Lookout Mountain Road Repairs - FEMA

X

Department Head Signature (Required on Hard Copy Submission)

Date

3-29-22

Costs:	Object	Object Description	Amount Requested
	4333.8303	FEMA	(\$40,299)
	4334.0181	State Military Department	(\$6,717)
	6630	Professional Services	\$100,016
	8301	Operating Transfer In	(\$53,000)
	Request Total		\$0

1a. Description of request:

This request provides budget and spending authority for Engineering and Permitting services for the repair of the LM-2000 road system, including the LM-2000 and LM-2100 roads. Work includes: conducting site assessments, the development of alternatives, plans, specifications, and engineer's cost estimate, and permitting services for the project.

1b. Primary customers:

The citizens of Whatcom County, the over 32,000 annual recreationists that visit Lookout Mountain Forest Preserve, Department staff who use the roads for management activities, EMS, and leaseholders.

2. Problem to be solved:

As a result of the November 2021 atmospheric river storm event (21-4321), a significant road washout occurred on the LM-2000 road within the Lookout Mountain Forest Preserve. A small debris flow moved down the stream channel and blocked the opening of a 6' culvert under the roadway. The tributary then flowed over the roadway and resulted in erosion of the full road prism, exposing a buried high voltage electrical transmission line and preventing access to multiple telecom tower sites at the top of Lookout Mountain. The towers support a variety of EMS, Federal Government, and other telecom services. The road system also provides valuable access for land managers and recreationists.

Additional roadway damage resulting from the storm event include several small slope failures and increased slope instability to an area damaged during a previous storm event (LM-2000/LM-2100 damage from event 18-4615).

Whatcom County initiated emergency repairs, reestablished stream flow through the culvert, and restored access to the tower sites. These repairs, though durable, are not considered long-term repairs. Through the repair and permitting process it was recognized that the 6' culvert is severely undersized to meet design requirements for debris flow and fish passage. Work not critical to reestablishing access to the telecommunications towers was deferred and not included in the emergency repairs.

Additional repairs are needed to support long-term functionality of the LM-2000 road.

FEMA funding has been received to address engineering needs for the damage from the previous storm event and the County has applied for additional FEMA funding for the additional engineering needs resulting from the November 2021 storm event.

Tuesday, March 29, 2022

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Parks & Recreation

Suppl ID # 3639

Fund 1

Cost Center 6352

Originator: Christ Thomsen

This budget supplemental reauthorizes and provides expenditure authority for existing FEMA funding and provides additional funding to proceed with engineering and permitting services, including: site assessment, alternatives analysis, construction plans and specifications, production of an engineer's cost estimate, and project permitting.

3a. Options / Advantages:

Options considered include:

1) Do no additional work beyond the completed emergency repairs. This precludes ongoing use of the LM-2100 road because the previous and recent slope failures caused loss of more than 70 feet of the roadway. The LM-2000 road is open and useable at this time but is at risk of additional damage should any of the minor slope failures move again. The LM-2000 road is also at further risk due to the undersized 6' culvert.

2) Contract for engineering and permitting services to evaluate site conditions, develop a response plan, and initiate permits for construction. This option provides critical information for decision making, budgeting, permitting, and construction.

Option 2 is the preferred option as it provides a basis for analyzing the issues, developing solutions, provides cost estimates for budgeting, and initiates the permit process for construction activities.

3b. Cost savings:

This is a planning request and no ongoing cost savings are expected as a result. Pursuing use of available federal funds now provides an alternative fund source for engineering and permitting services, along with eventual funding for repairs. It is anticipated that this project is eligible for FEMA funding for construction costs.

4a. Outcomes:

Engineering is complete and engineer's cost estimate is provided. Project permitting is initiated by October 31, 2022.

4b. Measures:

Engineer's cost estimate is received by August 31, 2022. Project permitting is initiated by October 31, 2022.

5a. Other Departments/Agencies:

Finance will assist in facilitating procurement of Engineering and Permitting Services.

5b. Name the person in charge of implementation and what they are responsible for:

Mike McKenzie and Brandon Stolzenburg

6. Funding Source:

FEMA: \$47,016 has been provided for engineering services. This request reauthorizes budget and expenditure authority for those funds.

REET 2: \$53,000. It is anticipated that portion of these funds, approximately 75%, will be reimbursed by FEMA.

Supplemental Budget Request

Status: Pending

Sheriff

Administration

Suppl ID # 3622

Fund 1

Cost Center 1003519005

Originator: Donna Duling/Dawn Pierce

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: 2022 - Operation Stonegarden FY19

X

Department Head Signature (Required on Hard Copy Submission)

Date

03/30/22

Costs:	Object	Object Description	Amount Requested
	4333.8705	St Homeland Sec Grt Prg	(\$134,688)
	6140	Overtime	\$95,371
	6210	Retirement	\$5,952
	6230	Social Security	\$8,149
	6259	Worker's Comp-Interfund	\$2,611
	6269	Unemployment-Interfund	\$143
	6410	Fuel	\$7,005
	6790	Travel-Other	\$1,128
	7220	Intergov Subsidies	\$3,177
	Request Total		(\$11,152)

1a. Description of request:

The U.S. Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) awarded \$400,725 to Whatcom County for FY19 Operation Stonegarden (OPSG) Grant Program to enhance cooperation and coordination among local, tribal, state, and federal law enforcement agencies in a joint mission to secure the borders of the United States. The Sheriff's Office and other law enforcement agencies in the area will use OPSG funding to provide enhanced patrols to increase law enforcement presence in maritime and land border areas of Whatcom County targeting illicit activity, specifically cross border human trafficking, smuggling, weapons, currency, and narcotics.

The total grant award was \$400,725 of which \$266,037.47 was used in 2021 leaving \$134,687.53 unspent. The Sheriffs Office will use the remaining allocation for grant administration, operational overtime, fuel, mileage, and sub-recipient payments.

State and local law enforcement agencies are not empowered to enforce immigration laws under the OPSG program.

1b. Primary customers:

Area law enforcement agencies and citizens of Whatcom County through increased capability of law enforcement to secure the international border.

2. Problem to be solved:

Budget authority is needed to use OPSG FY19 funds in 2022

3a. Options / Advantages:

OPSG funds are awarded specifically for projects that improve border security. They cannot be used for any other purpose

3b. Cost savings:

Cost savings of \$131,510.84 for Sheriff's Office and \$3,176.69 for City of Everson Police Department.

Supplemental Budget Request

Status: Pending

Sheriff

Administration

Suppl ID # 3622

Fund 1

Cost Center 1003519005

Originator: Donna Duling/Dawn Pierce

Regular wages and associated payroll costs of \$11,152 for staff involved in management and administration of this grant are eligible for reimbursement. However, these expenses are not included in this supplemental because regular wages and benefits are already included in the Sheriff's Office budget in other cost centers.

4a. Outcomes:

Enhanced patrols will be conducted per contract specifications and timelines. Daily Activity Reports will be completed and sent to the Homeland Security.

4b. Measures:

The Whatcom County Sheriff's Office and U.S. Border Patrol, Blaine Sector, will monitor projects and expenditures against contract deliverables.

5a. Other Departments/Agencies:

Whatcom County agencies participating in FY19 OPSG in 2022 are: U.S. Border Patrol Blaine Sector, Whatcom County Sheriff's Office, and the Everson Police Department.

Although receiving no OPSG funding, U.S. Border Patrol will provide coordination among participating agencies. Participating agencies receiving OPSG funding will provide enhanced law enforcement presence to reduce criminal activity in border areas.

5b. Name the person in charge of implementation and what they are responsible for:

Each participating agency will assign an individual to coordinate the project within their jurisdiction.

6. Funding Source:

Indirect federal grant from Washington State Military Department. Funds originate from U.S. Department of Homeland Security (DHS) Homeland Security Grant Program (HSGP) FY19 OPSG Grant Program, CFDA No. 97.067.

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 3630

Fund 1

Cost Center 2930

Originator: Jason Gum

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Stop Stick Acquisition

X

Department Head Signature (Required on Hard Copy Submission)

Date

03/28/22

Costs:	Object	Object Description	Amount Requested
	6320	Office & Op Supplies	\$9,292
	Request Total		\$9,292

1a. Description of request:

Stop sticks are formally known as a tire deflation device. This is a device used to impede or stop the movement of wheeled vehicles by puncturing their tires, causing a deflation of air.

The Whatcom County Sheriff's Office utilizes "stop-sticks" to reduce the speed of fleeing vehicles and the associated risk of injury or death associated with law enforcement pursuits or recklessly driven vehicles.

1b. Primary customers:

All commissioned deputies of the WCSO

2. Problem to be solved:

Recent changes in Washington State law (House Bill 1054) imposed great restrictions on the ability of law enforcement to pursue persons suspected of committing serious crimes. With these restrictions, the use of stop sticks has increased and become one of the primary methods for law enforcement to slow and/or stop a fleeing vehicle to assist in the arrest of a suspect when a pursuit is no longer allowed by law.

The law also requires deputies to consider alternatives to a pursuit and have a plan to resolve the incident. The least intrusive manner for law enforcement intervention in a pursuit is the use of a stop stick.

3a. Options / Advantages:

There are limited options for preventing a pursuit or limiting the risk and liability of a pursuit. The utilization of a stop stick is the least intrusive method and it does not require vehicle intervention in many situations. The stop stick can immobilize a vehicle or greatly reduce the vehicles speed and associated danger to the community.

3b. Cost savings:

The cost savings are not easily measured. The cost and effect of a vehicle pursuit, or a recklessly driven vehicle, within a community is immense. The ability to prevent, limit, or stop a pursuit could save hundreds of thousands of dollars in damage and liability.

4a. Outcomes:

With the proper use of a stop stick, a vehicle can be prevented from fleeing law enforcement, a pursuit can be avoided, limited, or stopped.

4b. Measures:

When a stop stick is deployed and a suspect is safely taken into custody, or a pursuit is prevented, limited, or ended with the use of a stop stick.

5a. Other Departments/Agencies:

No

5b. Name the person in charge of implementation and what they are responsible for:

Tuesday, March 15, 2022

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 3630

Fund 1

Cost Center 2930

Originator: Jason Gum

6. Funding Source:

General Fund.

Washington State Funding for Whatcom County Criminal Justice Legislation.

Authorized under Section 740, Chapter 334, Laws of 2021 (ESSB 5092).

Supplemental Budget Request

Status: Pending

Sheriff

Administration

Suppl ID # 3638

Fund 1

Cost Center 1003522001

Originator: Dawn Pierce

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: AGO SAKI Grant - Refrigeration Unit

X

Department Head Signature (Required on Hard Copy Submission)

Date

03/28/22

Costs:	Object	Object Description	Amount Requested
	4333.1683	AGO Grant - Refrigeration Unit	(\$3,000)
	6510	Tools & Equip	\$3,000
	Request Total		\$0

1a. Description of request:

The Sheriff's Office requests budget authority to use grant funds to purchase a refrigeration unit to store DNA samples from sexual assault kits.

1b. Primary customers:

2. Problem to be solved:

The Washington State Attorney General's Office (AGO) awarded a Sexual Assault Kit Initiative (SAKI) Grant to the Whatcom County Sheriff's Office to purchase a refrigeration unit for storage of evidence from sexual assault investigations.

3a. Options / Advantages:

Funds were awarded specifically to purchase a refrigeration unit. They may not be used for any other purpose.

3b. Cost savings:

Cost savings of \$3,000.00.

4a. Outcomes:

The Sheriff's Office will purchase the refrigeration unit by the grant expiration date of September 30, 2022.

4b. Measures:

5a. Other Departments/Agencies:

This project is a collaborative effort with law enforcement, victim advocates, sexual assault nurse examiners, prosecutors, and others all working together to solve these crimes and find justice for victims.

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Indirect Federal Grant: Sexual Assault Kit Initiative (SAKI) Grant No. 2017-AK-BX-0016; CFDA 16.833; US Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), Attorney General of Washington (pass-through agency) Award \$3,000.00.

Supplemental Budget Request

Status: Pending

Jail

Suppl ID # 3618

Fund 118

Cost Center 118160

Originator: Wendy Jones

Expenditure Type: One-Time Year 2 2022 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: NWRC Wage Increase

X

Department Head Signature (Required on Hard Copy Submission)

03/11/22

Date

Costs:	Object	Object Description	Amount Requested
	6635.003	Visiting Nurse Personal	\$153,350
	Request Total		\$153,350

1a. Description of request:

This supplemental budget request will increase the payments to the Jail's Nursing Service contractor, Northwest Regional Council (NWRC) in order to make them more competitive in the current market.

1b. Primary customers:

Offenders housing at the Jail and Work Center

2. Problem to be solved:

Since January 1st 2022, NWRC (Northwest Regional Council) is reporting a loss of 30% of the nurses providing care at the County Corrections facilities. While Nurses have been in increasingly short supply in Whatcom County, NWRC has been able to hire and keep nursing staff to provided offender care. However, over the past 2 years, the pre-existing Nursing shortage has increased significantly and has negatively impacted NWRC's ability to attract and retain qualified personnel.

Nurses who have resigned report they were being offered wage scales that significantly outstripped those offered by NWRC. As a result, the Human Resources Department at NWRC conducted a wage analysis to determine the impact of the wage differential on market conditions. They determined that:

* Nursing is currently listed as an "In-Demand" profession with an annual salary which exceeds NWRC's current starting salary by 27% and their top step salary by 5%.

* Comparables were reviewed including; "Indeed" for the Bellingham area, Snohomish County Jail, King County Jail, Washington Department of Corrections and the Federal Bureau of Prisons. The low market average estimate exceeded the existing beginning step by 4% and the high market average estimate exceeded the top step by 4%.

Based on the information given to NWRC by Nurses leaving for other jobs, and the information that was pulled from the market survey, it was determined that the pay scales needed to be increased.. This supplemental will allow NWRC to move their starting pay from \$32.53 to \$38.50, and proportionally increase promotional steps with the top step Nurse moving from \$42.45 to \$50.23. It will also maintain the percentage pay differential between the top step Nurse and the Nursing Supervisor. Benefit costs will remain the same..

3a. Options / Advantages:

The other option would be to leave the contract as it currently exists. Based on the past 2 months, we would anticipate that the loss of Nurses would continue, as would the lack of new applicants. This would create a very serious situation within the jail's healthcare system, leaving us unable to provide an adequate level of health care, which we is mandated by both case law and Washington State statutes (Estelle V Gamble: 429 US 97 (1976), Farmer V Brennan 511 US 825 (1994), RCW 70.48.130,). Additionally, the County came to a settlement agreement with the ACLU (American Civil Liberties Union)

Supplemental Budget Request

Status: Pending

Jail

Suppl ID # 3618

Fund 118

Cost Center 118160

Originator: Wendy Jones

to provide medication based treatment for OUD (Opioid Use Disorder). Nurses are critical to that settlement, as the law requires that a Nurse dispense the Opioid substitution medication rather than a Corrections Deputy.

3b. Cost savings:

I am unable to quantify a specific dollar amount as this, along with many other jail related requests, is aimed at prevention and risk management.

4a. Outcomes:

Outcomes are as follows:

- 1) Sufficient funding will be provided to allow for the increased salary levels. Funding will be available as of the end of April, 2022.
- 2) The nurses currently working for the jail health provider will remain since their salaries are commensurate with the market value of their skills and education. Nurses will choose to remain upon being notified of the funding increase.
- 3) New Nurses will apply for, and be selected, to be Correctional Health Care Nurses, as their salaries are commensurate with the market value of their skills and education. NWRC will continue in recruiting efforts between now and the anticipated salary increases.

4b. Measures:

For this Supplemental the measure will be the filling of all open Nursing positions; at this point the number of positions is 3.

5a. Other Departments/Agencies:

Yes, The NWRC. We have worked closely with the NWRC since they took over the nursing in December of 2013. They have been excellent partners in supplying this service and are looking forward to continuing to do so.

5b. Name the person in charge of implementation and what they are responsible for:

Program Manager Kristine Glasgow.

6. Funding Source:

There are not sufficient funds in the Jail budget to cover this increase. In reviewing the "Coronavirus State and Local Fiscal Recover Funds: Overview of the Final Rule" document, it appears that this expenditure can be covered under the criteria established for the use of ARPA (American Rescue Plan). Specifically, this request appears to fit the following criteria:

- * Pay premium to eligible workers who are receiving wages below local wage thresholds for Nursing Services, which is considered essential work
- * Be used to pay for Health Services
- * Support for prevention, mitigation, or other services in congregate living facilities.
- * NWRC Nursing Program has experienced a 30% employment loss from pre-pandemic levels
- * The Nurses provide medical care to patients in the jail.
- * This request reflects as "reasonable increase in compensation to remain with their current employment"

Supplemental Budget Request

Status: Pending

Health

Environmental Health

Suppl ID # 3636

Fund 122

Cost Center 122200

Originator: Ann Beck

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Housing Support Services Expansion

X 

Department Head Signature (Required on Hard Copy Submission)

3/28/22

Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$97,000
	Request Total		\$97,000

1a. Description of request:

The Health Department is requesting spending authority in order to support community housing providers with increased operational expenses due to COVID. In addition, this funding will fill essential gaps not covered by dedicated state grant funding. The Health Department was recently awarded a significant increase in the Emergency Solutions Grant COVID (ESG-CV) from the Department of Commerce, but requires flexible housing funds from the Housing fund to ensure reimbursement of provider operations expenses. These operational expenses may include staffing expenses related to accounting, IT support, administrative support, COVID hazard pay and facility maintenance.

As noted in Supplemental #3635, the increase in ESG housing grant funding of \$1.5M would provide \$950,000 for motel stays for families with children who are experiencing homelessness, \$110,000 for operational support for emergency shelters, \$50,000 for logistical support for the homeless outreach team, and \$380,000 for workforce support for staff working in outreach, emergency shelter, and permanent housing projects.

1b. Primary customers:

Whatcom County residents who are homeless or at risk of being homeless.

2. Problem to be solved:

The Emergency Solutions Grant COVID will have supplied nearly \$3 million to Whatcom County by the time the grant expires on 9/30/22. These funds have helped to increased shelter bed capacity and homeless outreach services in Whatcom County dramatically, however the state's maximum rate to support operations has left agencies unable to continue to expand without further administrative support. The added funds will help to meet the business needs of local providers to be able to continue to pay for staffing, supervision, management, human resources, technology, and other indirect costs associated with implementation.

3a. Options / Advantages:

The housing program of the Health Department has created a strategic plan that implements solutions along a continuum. Current document recording fees funds these various programs when other funding sources won't allow. Increased revenue from this source should be invested in these solutions in order to ensure housing opportunities to additional households and maximize our community's ability to utilize external resources.

3b. Cost savings:

Document recording fees are a dedicated source of revenue for programs and services to people in need of housing assistance. Providing outreach and supportive services not only improves the health and well-being of the community members, but also reduces the cost burden on the county as stable health results in increased employability, positive family life, and improved social relationships. Because the document recording fees will account for only 3-5% of new expenditures in support of ESG-CV expansion, each

Monday, March 28, 2022

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Health

Environmental Health

Suppl ID # 3636

Fund 122

Cost Center 122200

Originator: Ann Beck

dollar of document recording fees will unlock at least twenty dollars of ESG-CV funding.

4a. Outcomes:

Expected outcomes include continued service delivery by community partners, full use of the state ESG funds and increased supportive services to people experiencing homelessness. Anticipated specific uses of ESG-CV dollars that will be available with contributions from the Homeless Housing fund include staff support, supplies and equipment for emergency shelters, expanded operation of a young adult emergency shelter, capital investments for street outreach, and emergency shelter provision for families with children.

4b. Measures:

The housing program of the Health Department administers numerous contracts with various housing providers in the community. Each contract has performance measure that are expected to be achieved and reported on a regular basis. Success will be measured by reviewing whether the performance measures have been met. Further, use of these document recording fees will be explicitly tied to expenditures in ESG-CV grant funds that require pre-determined ratios of spending as a means to ensure maximum leverage.

5a. Other Departments/Agencies:

Services will be delivered by various community partners but will not impact other Whatcom County departments.

5b. Name the person in charge of implementation and what they are responsible for:

n/a

6. Funding Source:

Document Recording Fees from the Homeless Housing fund. The fund balance at the end of 2021 was approximately \$1,500,000.

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3635

Fund 122

Cost Center 122800

Originator: Ann Beck

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: ESG -COVID Housing Grant Increase

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.1423	Emergency Solutions	(\$1,500,000)
	6610	Contractual Services	\$1,500,000
	Request Total		\$0

1a. Description of request:

The Health Department is requesting an increase in spending authority in order to increase contracted services with community providers and spend dedicated grant funds that were added in January. The original award of \$1.4M is anticipated to be fully spent out in our current contracts with community housing support providers by September 2022. The additional grant funding would provide \$950,000 for motel stays for families with children who are experiencing homelessness, \$110,000 for operational support for emergency shelters, \$50,000 for logistical support for the homeless outreach team, and \$380,000 for workforce support for staff working in outreach, emergency shelter, and permanent housing projects.

1b. Primary customers:

Whatcom County residents who are homeless or at risk of being homeless, will continue to receive increases in outreach, emergency shelter placements, and permanent housing placements in the community. Funds will be distributed to non-profit partner agencies to empower them to delivery direct services to community members in need.

2. Problem to be solved:

The Emergency Solutions Grant COVID was increased to approximately \$3 million for Whatcom County and expires on 9/30/22. This ASR will allow the health department to put those funds into contracts so that they can purchase services that will provide support to hundreds of Whatcom County households in need of safe shelters and financial supports to end homelessness.

3a. Options / Advantages:

These grant dollars have been awarded to the Whatcom County Health Department to be used in support of housing solutions in this community. They will be used to further the Strategic Plan to End Homelessness and are not being considered for any activities that are outside of that plan.

3b. Cost savings:

These funds have been granted to the health department and the interventions they will support will generate large savings to related services in our community. Studies have demonstrated that providing housing for individuals experiencing homelessness typically is an investment that creates positive financial impact by lessening need for hospital stays, law enforcement engagement, incarceration, and other social/medical/criminal services.

4a. Outcomes:

These funds will used to provide motel stays for families with children through partner agencies Lydia Place and Opportunity Council. It is anticipated that 50-100 families will benefit from motel stays that lead to placement in permanent housing situations. Funding will also provide recruitment and retention bonuses for the housing service provider workforce with the anticipated outcome of reduced staff turnover and fewer vacant positions. Funding will support Northwest Youth Services to extend their Young Adult

Monday, March 28, 2022

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Health

Human Services

Suppl ID # 3635

Fund 122

Cost Center 122800

Originator: Ann Beck

Emergency Shelter by six months in its temporary location until a more permanent site can be prepared. Funding will support the purchase of a vehicle for the Opportunity Council's Homeless Outreach Team, and it will provide for necessary operating equipment and supplies at Sun House emergency shelter. All of these programs are currently in place but are facing financial headwinds due to rising costs and stagnant revenue streams.

4b. Measures:

These funds will go into contracts and their use will be tracked. Outcomes of project participants are tracked through quarterly reports, and other expenses will be evident based on invoices and receipts.

5a. Other Departments/Agencies:

Services will be delivered by various community partners but will not impact other Whatcom County departments.

5b. Name the person in charge of implementation and what they are responsible for:

n/a

6. Funding Source:

The Washington State Department of Commerce has provided funds through the Emergency Solutions Grant COVID (ESG-CV) which were made available to them as part of the CARES act of 2020.

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3641 Fund 324 Cost Center 32400 Originator: M Caldwell

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: REET trf to support Hovander flood repairs

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351.106	Operating Transfer Out	\$345,686
	Request Total		\$345,686

1a. Description of request:

Companion to Supplemental ID #3584 2021 Storm/Flood Damage Hovander (Incident 21-4321) (adopted 3/22/22) which funds the Hovander repairs out of the General Fund while authorization was being sought to amend the CIP and pay for the repairs out of REET II. Time is of the essence due to repairs needing to be accomplished before the Ski to Sea event the end of May 2022. This request provides reimbursement from REET II for the repair expenditures being incurred in the General Fund. FEMA may partially reimburse the expenditures in the future.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Real Estate Excise Tax II Fund

Supplemental Budget Request

Status: Pending

Non-Departmental

Suppl ID # 3644

Fund 324

Cost Center 32400

Originator: M Caldwell

Year 2 2022

Add'l FTE ☐

Priority 1

Name of Request: REET II trf in support of Lookout Mtn repairs

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	8351.106	Operating Transfer Out	\$53,000
	Request Total		\$53,000

1a. Description of request:

Companion to Parks Supplemental ID #3639 Lookout Mountain Road Repairs to fund engineering and permitting services for repairs to Lookout Mountain roads as a result of November 2021 flood damages. FEMA may eventually provide partial reimbursement.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

Real Estate Excise Tax II Fund

Supplemental Budget Request

Status: Pending

Executive

Suppl ID # 3619

Fund 332

Cost Center 332248

Originator: Suzanne Mildner

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Re-appropriate 2021 EDI grant POB Rural Broadband

X

Department Head Signature (Required on Hard Copy Submission)

3/15/22

Date

Costs:	Object	Object Description	Amount Requested
	7220	Intergov Subsidies	\$750,000
	Request Total		\$750,000

1a. Description of request:

This request is for EDI Program funding to support the Port of Bellingham's Rural Broadband construction project and re-appropriates the funding approved initially in 2019, then re-budgeted in 2021 (approved through budget ordinance #2019-070). This budget item was overlooked when the continuing appropriations list was prepared.

1b. Primary customers:

Unincorporated Whatcom County

2. Problem to be solved:

In May, 2019 the County Council approved an EDI Board recommendation to provide grant funding in the amount of \$750,000 to the Port of Bellingham in support of the rural broadband construction project. The project consists of engineering and construction of an open access dark fiber network; this will provide broadband to our local businesses and community members who currently are unserved and underserved by the current fiber infrastructure. This grant has not yet been expended and was not re-appropriated through the budget process. This supplemental re-allocates that original grant award.

3a. Options / Advantages:

Funding was previously approved through budget ordinance #2019-070. Contractually obligated to award grant when funds are to be expended.

3b. Cost savings:

N/A

4a. Outcomes:

The introduction of rural broadband will make our rural communities more marketable to new businesses and will encourage growth of more home-based businesses.

4b. Measures:

Final project report and budget summary.

5a. Other Departments/Agencies:

Project development and success involves many partners such as PUD#1 of Whatcom County, tribes, small cities

5b. Name the person in charge of implementation and what they are responsible for:

Port of Bellingham, Gina Stark

6. Funding Source:

Public Utilities Improvement Fund

Supplemental Budget Request

Status: Pending

Executive

Suppl ID # 3623

Fund 332

Cost Center 332242

Originator: Suzanne Mildner

Expenditure Type: One-Time

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Re-appropriate 2021-EDI loan BHA Samish Way

X

Department Head Signature (Required on Hard Copy Submission)

3/15/22
Date

Costs:	Object	Object Description	Amount Requested
	7220	Intergov Subsidies	\$725,000
	Request Total		\$725,000

1a. Description of request:

This request is for EDI Program loan funding to support Bellingham Housing Authority's Phase 3 construction project for Samish Commons, and re-appropriates the funding approved initially in 2021 (this was approved through budget Ordinance #2021-043). This budget item was inadvertently overlooked when the continuing appropriations list was prepared.

1b. Primary customers:

Households in Whatcom County who are at or below 60% of the Area Median Income and in need of affordable housing.

2. Problem to be solved:

In June of 2021 the County Council approved an EDI Board recommendation to provide loan funding in the amount of \$725,000 to Bellingham Housing Authority in support of the Samish Commons project, Phase 3. This supplemental re-allocates the original EDI loan award.

3a. Options / Advantages:

An Interlocal Agreement was signed in 2021 obligating the loan award. The goal of the project is to bring new units of affordable housing to an area that is close to services and public transportation.

3b. Cost savings:

N/A

4a. Outcomes:

49 new apartments will be constructed and surrounding infrastructure improved.

4b. Measures:

Completion of apartments that are leased to low-income households.

5a. Other Departments/Agencies:

The Bellingham/Whatcom Housing Authority is the owner and manager of Samish Commons.

5b. Name the person in charge of implementation and what they are responsible for:

Jenny Weinstein is the Housing Authority's project manager for this project

6. Funding Source:

Public Utilities Improvement Fund

Supplemental Budget Request

Status: Pending

Executive

Suppl ID # 3624

Fund 332

Cost Center 332251

Originator: Suzanne Mildner

Expenditure Type: One-Time

Year 1 2021

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Re-appropriate 2021 EDI funds-Lynden Front St

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	7220	Intergov Subsidies	\$1,333,333
	7221	Intergov Subsidies-Grants	\$666,667
	Request Total		\$2,000,000

1a. Description of request:

This request is for EDI Program funding to support Lynden's West Front Street road improvement project and it re-appropriates the funding approved in 2021. This was previously approved through budget ordinance #2021-043. There has not yet been any draw on the funding and this budget item was overlooked when the continuing appropriations list was prepared.

1b. Primary customers:

City of Lynden and Whatcom County

2. Problem to be solved:

In June of 2021 the County Council approved the EDI Board recommendation to provide loan and grant funds in the total amount of \$2-million to City of Lynden in support of the West Front Street Arterial Improvement project. This supplemental re-allocates the original EDI loan and grant award.

3a. Options / Advantages:

An Interlocal Agreement was signed in 2021 obligating the funding. West Front Street accesses 46 acres of Lynden's prime commercial/industrial zoned properties located to the west of Guide Meridian and the planned improvements will provide commercial transportation access to about 100 acres of Lynden's growing commercial services and industrial zoned land.

3b. Cost savings:

N/A

4a. Outcomes:

1,900 feet of new all-weather, illuminated, arterial street section and multi-modal facilities, resulting in new business start-ups, jobs and increased assessed valuation (property tax revenue).

4b. Measures:

Final project report and budget summary.

5a. Other Departments/Agencies:

City of Lynden Public Works Department will oversee this project

5b. Name the person in charge of implementation and what they are responsible for:

Steve Banham is the Public Works Director for Lynden

6. Funding Source:

Public Utilities Improvement Fund.

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3642

Fund 507

Cost Center 507160

Originator: Rob Ney

Expenditure Type: Ongoing

Year 2 2022

Add'l FTE ☐

Add'l Space ☐

Priority 1

Name of Request: Security Screening Services; Courthouse

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$40,000
	Request Total		\$40,000

1a. Description of request:

Courthouse Security Screening is a contracted service managed by Facilities Management. AS Facilities solicited a RFP/RFQ for Courthouse Security Screening and opened bids on March 1st. There were three proposals submitted and reviewed by staff.

The selection process was initially to review the submitted answers to the evaluation criteria listed in the RFP/RFQ. Two firms were within 1 point of each other after being evaluated. Staff then scheduled interviews with the two firms. A firm was selected after that process.

The last time the County advertised for Security Screening was 2018. Facilities Budget line item for this service is \$160,000. The selected candidate firm's proposal exceeds the budget amount by nearly \$40,000. Therefore, the purpose of this ASR is to increase the budget for Courthouse Security Screening to \$200,000, a \$40k increase.

1b. Primary customers:

The Court system and any staff member within the Courthouse.

2. Problem to be solved:

After evaluation of the submitted RFP/RFQ for Security Screening services, Facilities must increase their budget to cover the increase in the cost of contracted service.

3a. Options / Advantages:

The only other option is to hire County workers to perform this work. However, it is not believed that is a less expensive option.

This is the least expensive option for these services

3b. Cost savings:

There are no specific cost savings for this service.

4a. Outcomes:

It is estimated that the new Security firm will be under contract and providing services by May 1st. Services will be provided by the responsible bidder.

4b. Measures:

When the project is complete and within the specified budget.

5a. Other Departments/Agencies:

N/A

5b. Name the person in charge of implementation and what they are responsible for:

Roby Ney, Project & Operations Manager

Tuesday, March 29, 2022

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 3642

Fund 507

Cost Center 507160

Originator: Rob Ney

6. Funding Source:

~~General Fund~~ AS Fund Balance

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3647

Fund 507

Cost Center 507130

Originator: Brad Bennett

Year 1

2021

Add'l FTE ☐

Priority

1

Name of Request: JD Edwards Upgrade Staffing

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$114,840
	6210	Retirement	\$14,068
	6230	Social Security	\$8,785
	6245	Medical Insurance	\$21,194
	6255	Other H&W Benefits	\$2,648
	6259	Worker's Comp-Interfund	\$1,456
	6269	Unemployment-Interfund	\$299
	6329	Office & Op Supplies-Int	\$1,000
	6510	Tools & Equip	\$10,860
	6520	Software	\$732
	7190	Other Miscellaneous	\$800
	8301	Operating Transfer In	(\$176,682)
	Request Total		\$0

1a. Description of request:

This request is to add two positions to AS Finances staff in order to reassign existing staff to the JD Edwards Financial Software upgrade project.

1b. Primary customers:

The Financial Software serves county government and many junior taxing districts.

2. Problem to be solved:

The version of JD Edwards (Oracle) financial software is end of life. It only has limited vendor support. Vendor support will end in 2025.

It is necessary to replace our financial software. A project budget for this project was established in October 2018 (Ordinance 2018-49)

It is necessary to increase AS Finance staff in order to assign staff to the new financial system project.

This request adds one Assistant Finance Manager and one Budget Analyst to the AS Finance Staff. The plan is to assign two senior staff members to the J.D. Edwards upgrade project.

3a. Options / Advantages:

I do not think there are any other viable options, we need knowledgeable, experienced staff to work full time on this project. This is a good option because over the next three years there will be several AS Finance staff retirements. Adding these positions now will allow for a smoother transition as senior staff retire.

3b. Cost savings:

No Cost Savings. This will initially be a project expenditure funded from Financial System Software Project Budget.

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3647

Fund 507

Cost Center 507130

Originator: Brad Bennett

4a. Outcomes:

Our initial planning is to have existing ERP functionality live on the new software January 2024.

4b. Measures:

A successful outcome will be a smooth transition to the new software in 2024.

5a. Other Departments/Agencies:

This request only addresses AS Finance's additional Staffing for the ERP project. This is a part of the larger Financial System Software Project that will impact all county departments

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

These positions will be funded from a transfer from the Financial System Software project budget.

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3649

Fund 507

Cost Center 507130

Originator: Brad Bennett

Year 1

2021

Add'l FTE ☐

Priority

1

Name of Request: Senior Purchasing Coordinator

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$46,655
	6210	Retirement	\$4,782
	6230	Social Security	\$3,569
	6245	Medical Insurance	\$16,416
	6255	Other H&W Benefits	\$1,839
	6259	Worker's Comp-Interfund	\$728
	6269	Unemployment-Interfund	\$122
	6320	Office & Op Supplies	\$500
	6510	Tools & Equip	\$5,430
	6520	Software	\$366
	7190	Other Miscellaneous	\$400
	Request Total		\$80,807

1a. Description of request:

This request adds a second purchasing position to AS Finance. This position will act as a lead for purchasing activities.

1b. Primary customers:

All county departments.

2. Problem to be solved:

County operations have grown and AS Finance purchasing function cannot meet the demand for services. AS Finance has 1 FTE assigned to purchasing. In the last two years purchasing staff has worked considerable overtime to meet demand for services. We do not foresee a decrease in the demand for purchasing services. We are experiencing delays in issuing bids, requests for proposals and purchase orders. It is impacting other departments operations.

We have covered purchasing staff vacations with other AS Finance staff. Due to the increased workload in Finance in general we no longer have the capacity to effectively cover purchasing staff vacations and staff burnout is becoming an issue.

Additionally, more purchasing resources would improve our ability to support emergency operations.

3a. Options / Advantages:

We are working to provide efficient alternative processes to acquire goods and services. We are cross training other Finance staff to assist with purchasing however we do not staff members with the technical expertise for provide comprehensive purchasing services.

3b. Cost savings:

It is difficult to quantify any cost savings however eliminating delays to other departments should provide

Supplemental Budget Request

Status: Pending

Administrative Services

Finance

Suppl ID # 3649

Fund 507

Cost Center 507130

Originator: Brad Bennett

some efficiencies and savings.

4a. Outcomes:

Timely administration of bids, request for proposals and purchase orders. More robust purchasing function to address emergencies. Improvements should begin within 2 months of filling the position.

4b. Measures:

5a. Other Departments/Agencies:

Departments will have more timely purchasing services.

5b. Name the person in charge of implementation and what they are responsible for:

N/A

6. Funding Source:

2022 will be funded from AS fund balace. The cost will be incorporated in the administative cost allocation beginning in 2023.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-244

File ID:	AB2022-244	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Opportunity Council to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$272,196

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Contract



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Opportunity Council – Supplemental Pay Premium Contract

DATE: April 18, 2022

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

- **Background and Purpose**

This contract provides funding for supplemental pay premiums to staff providing direct services. This is a non-competitive contracting situation wherein the County will reimburse supplemental pay premiums in two rounds, up to \$1,000 each round. To be eligible, employees must work 80 or more hours in direct service in the 30 days prior to the end of the premium period. The premiums are funded with dedicated grant funding available from Washington State Department of Commerce Emergency Solutions COVID-19 (ESG-CV) Grant and County American Rescue Plan Act (ARPA) funds. The supplemental pay premiums are being provided in response to ongoing challenges and difficult work environments for employees in the professional housing and homeless services field.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$272,196, is provided by local document recording fees, the Washington State Department of Commerce ESG-CV Grant (CFDA 14.231) and County ARPA (CFDA 21.027) funds. These funds are included in the 2022 budget. Council approval is required as funding exceeds \$40,000.

Please contact Ann Beck, Human Services Manager at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us) if you have any questions or concerns regarding this request.



WHATCOM COUNTY CONTRACT INFORMATION SHEET				Whatcom County Contract No.	
Originating Department:			85 Health		
Division/Program: (i.e. Dept. Division and Program)			8550 Human Services / 855040 Housing Program		
Contract or Grant Administrator:			Christopher D'Onofrio		
Contractor's / Agency Name:			Opportunity Council		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:			
Does contract require Council Approval?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)			
Is this a grant agreement?		If yes, grantor agency contract number(s):		CFDA#:	14.231 / 21.027
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):		202008014 / ARPA	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		122200 / 122800 / 1388502	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):			
Is this agreement excluded from E-Verify?		No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>		
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 exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:			
\$	272,196	1. Exercising an option contained in a contract previously approved by the council.			
This Amendment Amount:		2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.			
\$		3. Bid or award is for supplies.			
Total Amended Amount:		4. Equipment is included in Exhibit "B" of the Budget Ordinance			
\$		5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.			
Summary of Scope: This contract provides funding for supplemental pay premiums for staff providing direct services.					
Term of Contract:		5 Months		Expiration Date: 9/15/2022	
Contract Routing:	1. Prepared by: JT		Date:		04/07/2022
	2. Health Budget Approval: JG		Date:		04/11/2022
	3. Attorney signoff:		Date:		
	4. AS Finance reviewed: Bbennett		Date:		4/18/2022
	5. IT reviewed (if IT related):		Date:		
	6. Contractor approved:		Date:		
	7. Submitted to Exec.:		Date:		
	8. Council approved (if necessary):		Date:		
	9. Executive signed:		Date:		
	10. Original to Council:		Date:		

CONTRACT FOR SERVICES
Between Whatcom County and Opportunity Council

Opportunity Council, hereinafter called **Contractor** and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 13,
Exhibit A (Scope of Work), p. 14,
Exhibit B (Compensation), p. 15,
Exhibit C (Certificate of Insurance), p. 16,
Exhibit D (Special Terms and Conditions – Commerce ESG-CV), pp. 17 to 21,
Exhibit E (Subaward Information), p. 22,
Exhibit F (American Rescue Plan Act Subrecipient Agreement), pp. 23 to 27,
Exhibit G (Subaward Information), p. 28,
Exhibit H (ARPA Eligibility Memo), pp. 29 to 31,
Exhibit I (2022 Whatcom County Health Department Supplemental Pay Policy Guidelines).

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 15th day of April, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 15^h day of September, 2022.

The general purpose or objective of this Agreement is to provide supplemental premium pay for staff providing direct services 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 \$272,196. 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 on:

CONTRACTOR:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225

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

Greg Winter, Executive Director

WHATCOM COUNTY:
Recommended for Approval:

Ann Beck, Human Services Manager	Date
----------------------------------	------

Erika Lautenbach, Director	Date
----------------------------	------

Approved as to form:

Royce Buckingham, Senior Civil Deputy Prosecutor	Date
--	------

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive Date

CONTRACTOR INFORMATION:

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

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension:

The duration 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 (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor

further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Christopher D'Onofrio, Program Specialist
Whatcom County Health Department

37.2 Notice:

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

Whatcom County Health Department
Christopher D'Onofrio, Program Specialist
509 Girard Street
Bellingham, WA 98225
360-778-6049
CDonofri@co.whatcom.wa.us.

Opportunity Council
Greg Winter, Executive Director
1111 Cornwall Avenue
Bellingham, WA 98225
360-734-5121
greg_winter@oppco.org

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

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

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

40.1 Modifications:

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

40.2 Contractor Commitments, Warranties and Representations:

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

41.1 Severability:

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

41.2 Waiver:

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

42.1 Disputes:

a. General:

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

b. Notice of Potential Claims:

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

c. Detailed Claim:

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

d. Arbitration:

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

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

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

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

I. Background

The Opportunity Council serves homeless and low-income families and individuals. To offset prolonged challenges and difficult work environments for employees, Whatcom County will reimburse supplemental pay premiums for staff providing direct services. These reimbursements will be made in accordance with supplemental pay requirements of the Washington State Department of Commerce Emergency Solutions Grant – COVID-19 and the American Rescue Plan Act.

II. Statement of Work

The Contractor will be reimbursed for supplemental pay premiums provided to staff providing direct services, per the Guidelines outlined in Exhibit I – 2022 Whatcom County Supplemental Pay Policy Guidelines. Staff who support street outreach, emergency shelter (including day centers), rapid rehousing and rapid rehousing projects and as outlined in their job descriptions, are required to provide direct service to clients or the general public are eligible for these supplemental pay premiums, as follows:

- A. Each eligible employee will receive \$1,000 gross pay through two rounds of supplemental pay premiums.
 - 1. The first round of supplemental pay premiums is available to all eligible staff employed on April 15, 2022, have a hire date on or before March 1, 2022 and worked 80 hours within the 30 days prior to the end date of the pay premium period.
 - 2. The second round of supplemental pay premiums is available to all eligible staff employed on September 1, 2022, have a hire date that is on or before August 1, 2022, and worked 80 hours within the 30 days prior to the end date of the pay premium period.
- B. The Contractor will develop written policies prior to issuing supplemental pay premiums to staff which include:
 - 1. Supplemental pay premium amount
 - 2. Eligibility timing for supplemental pay premium (date of initial eligibility for first round and date of eligibility for second round)
 - 3. Eligible job titles
 - a. FLSA non-exempt employees earning less than \$103,000 annually
 - b. Exempt employees earning less than \$103,000 annually and with a written justification
 - 4. Recordkeeping requirements which include:
 - a. Maintaining timesheets that demonstrate employment and hours worked for each period of eligibility
 - b. Job descriptions
 - c. Current, written supplemental pay premium policies.

- C. The contractor will comply with relevant Washington State 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/>

EXHIBIT "B"
(COMPENSATION)

I. Budget and Source of Funding: The source of funding for this contract, in an amount not to exceed \$272,196, is document recording fees, the Washington State Department of Commerce Emergency Solutions COVID-19 (ESG-CV) Grant (CFDA 14.231) and County American Rescue Plan Act (ARPA) Funds (CFDA 21.027). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

Cost Description	Documents Required Each Invoice	Budget
ESG-CV Eligible 2022 Supplemental Pay (April-September)	<ul style="list-style-type: none">• Payroll register for pay period(s) that the supplemental pay premium was paid out.• Timesheets for eligible staff for the 30-day period(s) prior to the end of the premium pay periods.	\$144,907
ARPA Eligible 2022 Supplemental Pay (April-September)		\$98,126
ESG-CV Indirect @ 7%		\$10,143
Document Recording Fee Funded Indirect @ 5% (to supplement ESG-CV limit)		\$7,245
ARPA Indirect @ 12%		\$11,775
TOTAL		\$272,196

*In no instance shall the indirect exceed the rates indicated above.

II. Invoicing

1. The Contractor shall submit invoices to (include contract/PO #) HL-BusinessOffice@co.whatcom.wa.us.
2. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Invoices submitted for payment must include the items identified in the table above. **Final invoices must be submitted no later than September 30, 2022.**
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 "C"
(CERTIFICATE OF INSURANCE)

“Exhibit D”
(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.

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 E”
ESG-CV SUBAWARD INFORMATION**

	Item Description	Contract Information
1	Subrecipient Name (Exactly as listed in DUNS): www.SAM.gov	Opportunity Council
2	Subrecipient DUNS Number: www.SAM.gov	J8DRQDDFBA64
3	Federal Award Identification Number (FAIN):	E-20-DW-53-0001
4	Federal Award Date (from Federal contract)	10/01/2020 – 09/30/2022
5	Start and End Date of the contract:	04/15/2022 – 09/30/2022
6	Amount of Federal Funds Obligated by this action:	\$3,044,770
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (current and past obligations):	\$155,050
8	Total Amount of the Federal Award <u>committed</u> to the subrecipient through Whatcom County:	\$155,050
9	Project description from Federal Award:	To assist people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness and to address the needs of people in emergency shelters and unsheltered situations.
10	Name of the Federal awarding agency:	U.S. Department of Housing & Urban Development
11	Name of the pass-through entity/entities:	WA State Department of Commerce / Whatcom County
12	Contact information for awarding official- (Name of County project coordinator)	Christopher D’Onofrio
13	Contact information for awarding official- General Contact email or phone number:	360-778-6049 CDonofri@co.whatcom.wa.us
14	CFDA Number	14.231
15	CFDA Name Program Name	Emergency Solutions Grant Program
16	Is the award Research and Development?	No
17	Indirect Cost Rate per the Federal Award	Not specified
18	Federal requirements imposed on the subrecipient by Whatcom County:	See Exhibit D
19	Additional requirements imposed by Whatcom County to meet its own responsibilities to the awarding agency:	See Exhibit A
20	Indirect Rate: Subrecipient approved rate or de minimis	7%
21	Access to subrecipient’s accounting records and financial statements as needed.	Yes
22	Closeout Requirements	Yes

“Exhibit F”
American Rescue Plan Act Funding
Subrecipient Agreement

The Contractor is considered a subrecipient for purposes of this contract and will hereafter be referred to as Subrecipient for this portion of the contract. Source of funding is Coronavirus State and Local Fiscal Recovery Funds, CFDA No. 21.027

1. COMPLIANCE WITH LAWS

- A. The Subrecipient and the County shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to United States Laws, Regulations and Circulars (Federal).
- B. The Subrecipient shall comply with the American Rescue Plan Act of 2021, PL 117-2, Section 9901 regarding allowable expenditures. (The Subrecipient shall also comply with all federal guidance regarding the Coronavirus State and Local Fiscal Recovery funds, including the Final Rule at 31 CFR Part 35 and U.S. Treasury FAQs.
- C. The Subrecipient shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- D. Other federal regulations applicable to this award include:
 - (i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - (ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R., Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - (iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 80 (including the requirement to include a term or condition in all lower tier covered transaction (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - (iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - (v) Governmentwide Requirement for Drug-Free Workplace, 31 CFR Part 20.
 - (vi) New Restrictions on Lobbying, 31 CFR Part 21.
 - (vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 USC§§ 4601-4655) and implementing regulations
 - (viii) Generally applicable federal environmental laws and regulations.
- E. The Subrecipient shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.
- F. The Subrecipient shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of Services under this Agreement. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the grounds of race, color, or national origin under program or activities receiving federal financial assistance.
 - (ii) The Fair Housing Act, Title VII-IX of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;
 - (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;

- (iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - (v) The American with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities and services provided or made available by state and local governments or instrumentalities or agencies thereto.
 - (vi) The Subrecipient shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this Agreement.
- G. Subrecipient must disclose in writing to Department of Treasury, or the County, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
 - H. Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
 - I. Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.
 - J. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- (i) A member of Congress or a representative of a committee of Congress;
- (ii) An Inspector General;
- (iii) The Government Accountability Office;
- (iv) A Treasury employee responsible for contract or grant oversight or management;
- (v) An authorized official of the Department of Justice or other law enforcement agency;
- (vi) A court or grand jury; or
- (vii) A management official or other employee of Subrecipient, contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

- K. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federal assisted programs and activities for individuals who, because of national denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
- L. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts program, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067.
- M. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient, Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.

- N. Subrecipient acknowledges and agrees that it must require any contractors, subcontractors, successors, transferees, and assignees to comply with assurances contained in sections J, K, L and M herein-above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

2. ACKNOWLEDGEMENT OF FEDERAL FUNDS

Grant Funds paid out under this Agreement are made available and are subject to Section 603(b) of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021. From and after the effective date of this Agreement, the Subrecipient agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Subrecipient describing programs or projects funded in whole or in part with federal funds under this Agreement, shall contain the following statement(s):

This project was supported, in whole or in part, by American Rescue Plan Act funding awarded to Whatcom County by the U.S. Department of Treasury.

3. REPAYMENT OF FUNDS TO THE COUNTY

- A. The Subrecipient shall return Grant Funds disbursed to it by the County under this Agreement for return by the County to the U.S. Department of the Treasury, upon the occurrence of any of the following events: (a) if overpayments are made by the County; or (b) if an audit of the Services by the U.S. Department of the Treasury, the State, or the County determines that the funds have been expended for purposes not permitted by 42 USC § 803(c)(1), 31 CFR Part 35, U.S. Treasury FAQs, the U.S. Department of the Treasury, the County, state law, or this Agreement. In such a case, the County shall make a written demand upon the Subrecipient for repayment, and the Subrecipient shall be obligated to repay to the County the funds demanded within sixty (60) calendar days of the demand.
- B. No exercise by the County of the right to demand repayment of funds from the Subrecipient shall foreclose the County from making an additional demand for repayment if a return of additional funds is required by the U.S. Department of the Treasury; the County's right to demand repayment from the Subrecipient may be exercised as often as necessary to recoup from the Subrecipient all funds required to be returned by the County to the U.S. Department of the Treasury.
- C. The Subrecipient is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

4. NONDISCRIMINATION AND EQUAL OPPORTUNITY

- A. General Provisions
Subrecipient shall make the facilities available to the public in a manner that assures fair, equal, and non-discriminatory treatment to all persons without regard to race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability. No personnel shall be refused service, be given discriminatory treatment, be denied any privilege, use of facilities, or participation in activities on account of race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability, nor shall any person be required to participate in any religious worship, exercise, or instruction. The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction.
- B. Equal Access to Housing Regardless of Sexual Orientation or Gender Identity
Subrecipient shall abide by all provisions of the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, as set forth in 24 CFR, Parts 5 and 570. These provisions ensure that any qualified individual or family is not denied equal access to housing. In addition, the RECIPIENT shall not inquire about the sexual orientation or gender identity of an applicant for, or occupant of, housing assisted under this Agreement.
- C. Housing Preferences
Projects which have committed to limit eligibility or preference to a particular segment of the population may do so only if permitted by Fair Housing Act restrictions.

Any limitation or preference in housing must not violate nondiscrimination provisions in 24 CFR § 92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR part 574, the Shelter Plus Care program under 24 CFR part 582, the Supportive Housing program under 24 CFR part 583, supportive housing for the elderly or persons with disabilities under 24 CFR part 891), and the limit or preference is tailored to serve that segment of the population.

If the Project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the Project may have a limitation or preference for persons with disabilities who need services offered at a project only if:

- The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
- Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and
- Such services cannot be provided in a non-segregated setting. The families must not be required to accept the services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

D. **TDD/TTY or Relay Service Required**

Subrecipient agrees to list a TDD/TTY or the Washington Relay telephone number on all of the written policies and documents that they make available to participants, beneficiaries, or employees, including their letterhead, materials used to market programs, and any other public document that lists a telephone number.

5. DOMESTIC PREFERENCES FOR PROCUREMENTS

Domestic Preference for Procurements

As appropriate, and to the extent consistent with the law, the subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

6. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause –

B. *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (c) of this clause applies, the subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - d. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. *Exceptions.*

- i. This clause does not prohibit subrecipients from providing –
 - a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:

- a. Covered telecommunications equipment or services that:
 - i. Are *not used* as a substantial or essential component of any system; and
 - ii. Are *not used* critical technology of any system.
- b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting Requirement.

- i. In the event the subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the subrecipient is notified of such by a subcontractor at any tier or by any other source, the subrecipient shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - a. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - b. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the subrecipient shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. Subcontracts. The Subrecipient shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

7. RECORDS MAINTENANCE

The Subrecipient shall maintain books, records, documents, data and other evidence relating to this contract 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 contract.

The Subrecipient shall maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity.

The Subrecipient shall retain such records for a period of five (5) years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

**“Exhibit G”
ARPA SUBAWARD INFORMATION**

	Item Description	Contract Information
1	Subrecipient Name (Exactly as listed in DUNS): www.SAM.gov	Opportunity Council
2	Subrecipient DUNS Number: www.SAM.gov	J8DRQDDFBA64
3	Federal Award Identification Number (FAIN):	SLFRP1195
4	Federal Award Date (from Federal contract)	05/13/2021
5	Start and End Date of the contract:	03/03/2021 – 12/31/2026
6	Amount of Federal Funds Obligated by this action:	\$44,528,542
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (current and past obligations):	\$109,901
8	Total Amount of the Federal Award <u>committed</u> to the subrecipient through Whatcom County:	\$109,901
9	Project description from Federal Award:	Coronavirus Local Fiscal Recovery
10	Name of the Federal awarding agency:	U.S. Department of the Treasury
11	Name of the pass-through entity/entities:	Whatcom County
12	Contact information for awarding official- (Name of County project coordinator)	Christopher D’Onofrio
13	Contact information for awarding official- General Contact email or phone number:	360-778-6049 CDonofri@co.whatcom.wa.us
14	CFDA Number	21.027
15	CFDA Name Program Name	Coronavirus State and Local Fiscal Recovery Funds
16	Is the award Research and Development?	No
17	Indirect Cost Rate per the Federal Award	Not specified
18	Federal requirements imposed on the subrecipient by Whatcom County:	See Exhibit F
19	Additional requirements imposed by Whatcom County to meet its own responsibilities to the awarding agency:	See Exhibit A
20	Indirect Rate: Subrecipient approved rate or de minimis	12%
21	Access to subrecipient’s accounting records and financial statements as needed.	Yes
22	Closeout Requirements	Yes

Exhibit H

WHATCOM COUNTY HEALTH DEPARTMENT



ERIKA LAUTENBACH, MPH, DIRECTOR

AMY HARLEY, MD, MPH, CO-HEALTH OFFICER
GREG THOMPSON, MD, MPH, CO-HEALTH OFFICER

MEMORANDUM TO FILE

FROM: ANN BECK, WHATCOM COUNTY HEALTH DEPARTMENT HUMAN SERVICES MANAGER
DATE: April 4, 2022
RE: AMERICAN RECOVERY PLAN ACT - DETERMINATION OF ELIGIBLE USE for HOMELESS HOUSING SYSTEM STAFF SUPPLEMENTAL PAY PREMIUMS

Section 1: Eligible Use

The Department of the Treasury Final Rule implementing the Coronavirus State Fiscal Recovery Fund and the Local Fiscal Recovery Fund (SLFRF) established under the American Rescue Plan, allows funds to be for the purposes of providing premium pay for essential workers. Specifically, in the *Eligible Uses* section, SLFRF's final rule states that "As Americans return to work and governments relax certain rules, essential workers will continue to bear the brunt of the risk of maintain the ongoing operation of vital facilities and services. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities. Premium pay is designed to address the disparity between the critical services provided by and the risks taken by essential workers and the relatively low compensation they tend to receive." The Legal and Finance Departments concur that staff's proposed program elements are eligible uses of County ARPA grant funds. The proposed use of funds is summarized in Section 3 of this memo.

Federal Regulations

Federal Register Vol 87, No 18, January 27, 2022 Rules & Regulations – See Page 4397-98

<https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf>

On Page 4397 the final rule defines the framework for those eligible for premium pay:

*The interim final rule established a three-part framework for recipients seeking to use SLFRF funds for premium pay. First, to receive premium pay one must be an **eligible worker**. Second, an **eligible worker must also perform essential work**. Finally, **premium pay must respond to workers performing essential work during the COVID-19 public health emergency**.*

On page 4397, the ARPA defines "eligible workers" as:

those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each . . . [government] may designate as critical to protect the health and wellbeing of [its] residents.

On page 4398, the documented Rules and Regulations clarifies the Chief Executive's discretion to designate additional sectors as critical:

"While all such public employees are "eligible workers" and the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical, in order to receive premium pay, these workers must still meet the other premium pay requirements (e.g., performing essential work). Treasury recognizes that the list of "essential critical infrastructure sectors" includes both occupations and sectors."

On page 4398 the Rules and Regulations defines "Essential Work":

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360.778.6001
WHATCOMCOUNTYHEALTH



Whatcom County
HEALTH
Department

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BELLINGHAM, WA 98225-4551
360.778.6100 | FAX 360.778.6101
WWW.WHATCOMCOUNTY.US/HEALTH

"The interim final rule defined "essential work" as work that (1) is not performed while teleworking from a residence and (2) involves either (i) regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work or (ii) regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work. Treasury adopted this definition of essential work to ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work during a pandemic."

U.S. Department of Housing and Urban Development Notice CPD-20-08

(<https://www.hud.gov/sites/dfiles/OCHCO/documents/20-08cpdn.pdf>)

This notice, dated September 1, 2020, applies to all Emergency Solutions Grant funding issued through the Office of Community Planning and Development. Page 13 begins with an overview of hazard pay:

"Hazard Pay. As permitted by the CARES Act, funds may be used to pay hazard pay for recipient or subrecipient-staff working directly to prevent, prepare for, and respond to coronavirus among persons who are homeless or at risk of homelessness. Examples of recipient or subrecipient staff working directly in support of coronavirus response include emergency shelter intake staff, street outreach teams, emergency shelter maintenance staff, emergency shelter security staff, staff providing essential services (e.g., outpatient health or mental health, housing navigators), and staff in proximity to persons with coronavirus or working in locations with a high likelihood of contracting coronavirus."

Section 2: Summary of Impacted Industry

The workforce that provides direct services to people who are experiencing or are at-risk of homelessness was compelled to rapidly expand in 2020 to accommodate an unprecedented surge in demand for housing stability support. These staff members include individuals working in projects that focus on street outreach, emergency shelters, subsidized rental housing projects, those working to ensure stability for formerly homeless individuals in permanent supportive housing projects, and the intake and assessment personnel who serve as an access point for people seeking a variety of housing-related services. Because this work relies on face-to-face engagement with a vulnerable population and cannot shift their work to digital platforms, the heightened risk of contracting COVID and hardships brought about by the pandemic's impact on this industry is widespread and enduring.

Section 3: Summary of Proposed Uses

The proposed use is primarily focused on stabilizing the workforce within the housing services sector that has been under significant strain since March of 2020. In addition, fully staffed service provider agencies will be better situated to deliver high-quality services that positively impact clients who receive those services and by extension the community writ large.

Agencies will be funded to provide two payments of \$1,000 to all direct-service staff (one in April and one in September). Funds would support partner agencies to support their staff who provide face-to-face support services in the housing services industry. This pair of payments will be provided to respond to ongoing challenges and difficult work environments for employees in the professional housing and homeless services field.

Exhibit I

WHATCOM COUNTY HEALTH DEPARTMENT



ERIKA LAUTENBACH, MPH, DIRECTOR
AMY HARLEY, MD, MPH, CO-HEALTH OFFICER
GREG THOMPSON, MD, MPH, CO-HEALTH OFFICER

2022 Supplemental Pay Policies

A. Duration

1. The first round of supplemental pay premiums is available for all eligible staff employed by each participating Agency on April 15, 2022, have a hire date on or before March 1, 2022, and worked 80 hours within the 30 days prior to the end of the pay premium period.
2. The second round of supplemental pay premiums is available for eligible staff who are employed on September 1, 2022, have a hire date that is on or before August 1, 2022 and worked 80 hours within the 30 days prior to the end of the pay premium period.
 - o Each agency will have discretion in their choice to include new staff who are hired during the months of April, May, June, and July and meet the above criteria in order to align with internal policies and create equity across departments of their agency.
3. All staff employed for the entirety of the first eligibility period (March 1, 2022 through April 15, 2022) and engaging in the activities described in the section below, will receive supplemental pay premiums in April. All of those staff who maintain eligible employment in job positions that are eligible for supplemental pay premiums will be eligible for the second round of pay premiums in September.

B. Eligibility Based on Job Descriptions

Eligible staff are those who are FLSA non-exempt (or exempt employees with a written justification) who earn less than \$103,000 annually and who support street outreach, emergency shelter (including day centers), rapid rehousing and rapid rehousing projects, and delivery of rental assistance, regardless of the funding source paying for those particular hours if their job duties, as described in their job descriptions, require them to provide direct service to clients or the general public.

C. Amount

Each round of supplemental pay premiums will provide each eligible staff with \$1,000 gross pay.

D. Agency Requirements

In order to implement this program for supplemental pay premiums, an organization must have written policies prior to issuing the funding which include: the supplemental pay premium amount, eligibility timing for the supplemental pay premium (date of initial eligibility for first round and date of eligibility for second round), who is eligible (job titles), and the recordkeeping procedures. This should be reflected in the written pay premium policies, including the accounting basis (cash or accrual) selected for costing each type of pay premium to ensure it is consistently followed by the grantee/subgrantee for specified groupings of employees. Recordkeeping requirements include maintaining timesheets that demonstrate employment at each date of eligibility, job descriptions, and the updated written pay premium policies. These records must be provided in the event of state and/or county audits of these funds.

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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-208

File ID:	AB2022-208	Version:	1	Status:	Agenda Ready
File Created:	03/28/2022	Entered by:	LReid@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: LReid@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Northwest Regional Council for the provision of nursing services for the jail and work center, increasing the original contract by \$153,350.00 for the balance of 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Amendment

**WHATCOM COUNTY
SHERIFF'S OFFICE**

**BILL ELFO
SHERIFF**



*PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4078
(360) 778-6600*

MEMORANDUM

TO: Satpal Sidhu, County Executive
FROM: Bill Elfo, Sheriff 
RE: Northwest Regional Council Contract Amendment Salary Increases
DATE: March 15, 2022

Enclosed are two (2) originals of an Amendment to change the Agreement between Northwest Regional Council (NWRC) and Whatcom County for your review and signature.

▪ **Background and Purpose**

Whatcom County Jail currently has a contract with NWRC for the provision of Nursing services for the Jail and Work Center. We are seeking to increase the contracted amount for the balance of 2022.

Since January 1, 2022 our contractor, NWRC, has lost 30% of their nursing staff. Despite recruitment efforts, which have proven successful in past years, they have received no response to job postings. This is not an issue unique to the Jail Nursing positions.

Prior to the COVID outbreak, the US Bureau of Labor Statistics projected that more than 275,000 nurses would be needed between 2020 and 2030, and that employment opportunities for nurses were projected to be growing at a faster rate (9%), than all other occupations. The COVID epidemic has significantly worsened the shortage, with more nurses retiring early or leaving the profession due to burnout.

NWRC's Human Resource Department conducted a wage analysis to determine if there was a need for upward reclassification prompted by market conditions. The HR department determined:

- Nursing is currently listed as an "In-Demand" profession with an annual salary which exceeds NWRC's current starting salary by 27% and their top step salary by 5%.

- Comparables were reviewed including: (using “Indeed” a job search company) for the Bellingham area, Snohomish County Jail, King County Jail, Washington Department of Corrections and Federal Bureau of Prisons. The low market average estimate exceeded the existing beginning step by 4% and the high market average estimate exceeded the top step by 4%.

After reviewing this information, NWRC forwarded a request to increase their contract by \$153,350.00, with a new contract hourly rate of \$75.55. This will provide an increase in their beginning step from \$32.53 to \$38.50 with proportional increases through step 10, which will increase the current \$42.45 to \$50.23. It will also adjust the Nursing Supervisor wage to maintain a 10.9% compression between the RN and the Nursing Supervisor. The benefit costs will remain the same.

It is anticipated that this wage adjustment will make the Jail Nurse positions competitive with the local market, and help resolve the potential future loss of more existing nurses.

▪ **Funding Amount and Source**

A budget supplemental has been submitted and will be up for adoption at the April 26th Council Meeting. Funding will come from the Jail Sales Tax Fund. The amount for the balance of calendar year 2022 will be \$153,350.00

▪ **Differences from Previous Contract**

This will increase the original contract by \$153,350.00 for the balance of 2022.

Please contact Wendy Jones at extension 6505, if you have any questions or concerns regarding the terms of this agreement.

Encl. (2)

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
201911036-4

Originating Department:	Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	Corrections Bureau/In Custody
Contract or Grant Administrator:	Wendy Jones
Contractor's / Agency Name:	Northwest Regional Council
Is this a New Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: <u>201911036</u>	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> 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="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): <u>19-58</u> Contract _____ Cost Center: <u>118160</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 1,500,790.00 <u>1,542,406</u> This Amendment Amount: \$ <u>153,350.00</u> Total Amended Amount: \$ 1,654,140.00 <u>1,695,756.00</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: Northwest Regional Council provides nursing services to inmates at the Jail and Work Center and to detainees in Juvenile Detention (Juvenile pays a flat monthly rate of \$3,468.00 which comes from their budget and was approved 12/03/2019). This amendment raises the hourly rate for nursing services for the Jail and Work Center in an effort to retain quality nurses.	
Term of Contract: 10 months	Expiration Date: 12/31/22

Contract Routing:	1. Prepared by: LR	Date: 03/15/22
	2. Attorney signoff: <u>BW via email</u>	Date: <u>3.17.22</u>
	3. AS Finance reviewed: M Caldwell	Date: 3/17/22
	4. IT reviewed (if IT related):	Date: _____
	5. Contractor signed: <input checked="" type="checkbox"/>	Date: <u>4.18.22</u>
	6. Submitted to Exec.:	Date: _____
	7. Council approved (if necessary):	Date: _____
	8. Executive signed:	Date: _____
	9. Original to Council:	Date: _____

Amendment No. 4
 Whatcom County Contract No. 201911036
 CONTRACT BETWEEN WHATCOM COUNTY
 AND NORTHWEST REGIONAL COUNCIL (NWRC)

THIS AMENDMENT is to the Contract between Whatcom County and Northwest Regional Council (NWRC), dated November 26, 2019 and designated "Whatcom County Contract No. 201911036". In consideration of the mutual benefits to be derived, the parties agree to the following:

This Amendment changes the hourly rate for Nursing Services in the Jail and Work Center from \$67.30 to \$75.55. This increases the maximum annual compensation by \$153,350.00 for a total of \$1,654,140.00. Juvenile Detention's annual amount of \$41,616.00 will remain the same bringing the combined annual total consideration for the Jail, Work Center and Juvenile to \$1,695,756.00.

Unless specifically amended by this agreement, all other terms and conditions of the original Contract and any other Amendments shall remain in full force and effect.

This Amendment takes effect: March 1, 2022 regardless of the date of signature and expires December 31, 2022.

IN WITNESS WHEREOF, Whatcom County and Northwest Regional Council (NWRC) have executed this Amendment on the date and year below written.

CONTRACTOR:

Northwest Regional Council (NWRC)

Amanda McDade
 Amanda McDade, Executive Director Date

STATE OF WASHINGTON)
) ss.
 COUNTY OF Whatcom)

On this 18th day of April, 20 22, before me personally appeared Amanda McDade to me known to be the Executive Director of Northwest Regional Council (NWRC) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Jerilyn Carol Johansen
 NOTARY PUBLIC in and for the State of Washington, residing at
Whatcom County. My commission expires 9-12-2022.

WHATCOM COUNTY:

Recommended for Approval:

WS

Sheriff Bill Elfo

03/21/22
Date

Approved as to form:

BW approved via email 3.17.22
Brandon Waldron, Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20____, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, 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
_____. My commission expires _____.

CONTRACTOR INFORMATION:

Northwest Regional Council (NWRC)
Amanda McDade, Executive Director

Address:
600 Lakeway Drive, Suite 100
Bellingham, WA 98225

Mailing Address:
Same as above

Contact Phone: 360-676-6749
Contact Fax: 360-738-2451



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-212

File ID:	AB2022-212	Version:	1	Status:	Agenda Ready
File Created:	03/29/2022	Entered by:	DEbergso@co.whatcom.wa.us		
Department:	Facilities Management Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: [Click here to enter text.](#)

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a grant agreement between Whatcom County and Washington State Dept of Commerce for the Way Station in the amount of \$4,000,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The Way Station is a collaborative effort with our partners Peace Health, Unity Care Northwest and the Opportunity Council and is intended to provide recuperative respite care, health services, hygiene services and case management to undersheltered individuals.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Information Sheet, Proposed contract

**WHATCOM COUNTY
ADMINISTRATIVE SERVICES**
Whatcom County Courthouse
311 Grand Ave, Suite 108
Bellingham, WA 98225-4083



FACILITIES MANAGEMENT
3720 Williamson Way
Bellingham, WA 98226-9156
Phone: (360) 778-5360
Fax: (360) 778-5361
Facilities@co.whatcom.wa.us

ROB NEY
Project & Operations Manager

MEMORANDUM

TO: Satpal Singh Sidhu
FROM: Rob Ney, Project & Operations Manager
RE: State of Washington Commerce Grant for Way Station
DATE: April 18, 2022

▪ **Background and Purpose**

Attached for Council consideration is a State of Washington Department of Commerce Grant for Local and Community Projects in the amount of \$4,000,000. The Council may recall, this grant was originally applied for by Unity Care Northwest for the sole purpose of partial funding of the Way Station project at the 1500 State Street Facility. Staff and Unity Care NW have worked with Commerce to transfer this grant to Whatcom County.

The Way Station is a collaborative effort with our partners Peace Health, Unity Care Northwest and the Opportunity Council and is intended to provide recuperative respite care, health care services, hygiene services and case management to unsheltered individuals. The Council approved the Amended Way Station Memorandum of Understanding for this use on January 25, 2022.

This is a significant portion of the funding for the Way Station. By accepting this grant, the County has the ability to be reimbursed up to \$4,000,000 of capital expenditures for the Way Station.

Also on the Agenda for consideration is the introduction of the Additional Service Request for spending authority for the three different sources of funding for the Way Station. Final Action for these items will be on April 26.

▪ **Funding Amount and Source**

By accepting the Grant funding would be provided up to \$4,000,000 of reimbursed capital expenditures.

Recommended Action

Staff is recommending approval and acceptance of this Grant, and recommending the Council authorize the Executive to sign the grant.

Please contact Rob Ney at extension 5365, if you have any questions or concerns regarding the terms of this agreement.

Enclosures

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
202203027

Originating Department:	Administrative Services
Division/Program: (i.e. Dept. Division and Program)	Facilities Management 505090
Contract or Grant Administrator:	Rob Ney
Contractor's / Agency Name:	WA State Department of Commerce

Is this a New Contract? Yes ☒ No ☐ If not, is this an Amendment or Renewal to an Existing Contract? Yes ☐ No ☒
 If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____

Does contract require Council Approval? Yes ☒ No ☐ If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? Yes ☒ No ☐ If yes, grantor agency contract number(s): 22-96634-199 CFDA#: _____

Is this contract grant funded? Yes ☐ No ☒ If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Yes ☐ No ☒ If yes, RFP and Bid number(s): _____ Contract Cost Center: _____

Is this agreement excluded from E-Verify? No ☐ Yes ☒ 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"/> Goods and services provided due to an emergency
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input checked="" 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): \$ 4,000,000 This Amendment Amount: \$ _____ Total Amended Amount: \$ 4,000,000	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 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.
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Summary of Scope: _____

The grant agreement is between Washington State Department of Commerce and Whatcom County for the 2022 Local & Community Projects Program for the Way Station Project, located at 1500 N State Street, Bellingham, WA.

Term of Contract:	Expiration Date: 6/30/23
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Contract Routing:	1. Prepared by: Dee Ebergson	Date: 3/29/22
	2. Attorney signoff: <u>Approved/BW/email</u>	Date: 4-15-22
	3. AS Finance reviewed: bbenett	Date: 4/18/2022
	4. IT reviewed (if IT related):	Date: _____
	5. Contractor signed:	Date: _____
	6. Submitted to Exec.:	Date: _____
	7. Council approved (if necessary):	Date: _____
	8. Executive signed:	Date: _____
	9. Original to Council:	Date: _____



Grant to

Whatcom County

through

The 2022 Local & Community Projects Program

For

The Way Station (Bellingham) - Renovation of existing facility.

Start date:

7/1/2021

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Attachment A, Scope of Work; Attachment B, Budget; Attachment C, Availability of Funds;
Attachment D Certification of Prevailing Wages; Attachment E, Certification of LEED

FACE SHEET

Grant Number: 22-96634-199

Washington State Department of Commerce Local Government Division Community Capital Facilities Unit

1. GRANTEE Whatcom County 311 Grand Avenue Bellingham, WA 98225		2. GRANTEE Doing Business As (optional) 					
3. Grantee Representative Satpal Sidhu County Executive (360) 778-5200 ssidhu@co.whatcom.wa.us		4. COMMERCE Representative Chuck Hunter Project Manager (360) 764-3312 Fax 360-586-5880 chuck.hunter@commerce.wa.gov P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525					
5. Grant Amount \$4,000,000.00	6. Funding Source Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	7. Start Date 7/1/2021	8. End Date 6/30/2025, contingent on reappropriation, 6/30/2023 if funds are not reappropriated				
9. Federal Funds (as applicable) N/A		<table style="width: 100%; border: none;"> <tr> <td style="text-align: center; border-bottom: 1px solid black;"><u>Federal Agency</u></td> <td style="text-align: center; border-bottom: 1px solid black;"><u>CFDA Number</u></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> </tr> </table>		<u>Federal Agency</u>	<u>CFDA Number</u>	N/A	N/A
<u>Federal Agency</u>	<u>CFDA Number</u>						
N/A	N/A						
10. Tax ID # 91-6001383	11. SWV # SWV0002425-09	12. UBI # 371-010-246	13. DUNS # N/A				
14. Grant Purpose The outcome of this performance-based contract is to renovate existing facility as referenced in Attachment A – Scope of Work.							
COMMERCE, defined as the Department of Commerce, and the GRANTEE, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grant Terms and Conditions including Attachment “A” – Scope of Work, Attachment “B” – Budget, Attachment “C” – Certification of Availability of Funds to Complete the Project, Attachment “D” – Certification of the Payment and Reporting of Prevailing Wages, Attachment “E” – Certification of Intent to Enter LEED process.							
FOR GRANTEE _____ Satpal Sidhu, County Executive _____ Date		FOR COMMERCE _____ Mark K. Barkley, Assistant Director _____ Date APPROVED AS TO FORM  Dawn Cortez, Assistant Attorney General Washington State Office of the Attorney General Date 3/23/2022					

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

THIS CONTRACT, entered into by and between Whatcom County (a Local Government hereinafter referred to as the GRANTEE), and the Washington State Department of Commerce (hereinafter referred to as COMMERCE), WITNESSES THAT:

WHEREAS, COMMERCE has the statutory authority under RCW 43.330.050 (5) to cooperate with and provide assistance to local governments, businesses, and community-based organizations; and

WHEREAS, COMMERCE is also given the responsibility to administer state funds and programs which are assigned to COMMERCE by the Governor or the Washington State Legislature; and

WHEREAS, the Washington State Legislature has, in Laws of 2021, Chapter 332, Section 1075, made an appropriation to support the 2022 Local & Community Projects Program, and directed COMMERCE to administer those funds; and

WHEREAS, the enabling legislation also stipulates that the GRANTEE is eligible to receive funding for acquisition, construction, or rehabilitation (a venture hereinafter referred to as the "Project").

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promises hereinafter contained, the parties hereto agree as follows:

1. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the GRANTEE and their contact information are identified on the Face Sheet of this Grant.

2. COMPENSATION

COMMERCE shall pay an amount not to exceed \$4,000,000.00 for the capital costs necessary for or incidental to the performance of work as set forth in the Scope of Work.

3. CERTIFICATION OF FUNDS PERFORMANCE MEASURES

A. The release of state funds under this contract is contingent upon the GRANTEE certifying that it has expended or has access to funds from non-state sources as set forth in ATTACHMENT C (CERTIFICATION OF THE AVAILABILITY OF FUNDS TO COMPLETE THE PROJECT), hereof. Such non-state sources may consist of a combination of any of the following:

- i) Eligible Project expenditures prior to the execution of this contract.
- ii) Cash dedicated to the Project.
- iii) Funds available through a letter of credit or other binding loan commitment(s).
- iv) Pledges from foundations or corporations.
- v) Pledges from individual donors.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

- vi) The value of real property when acquired solely for the purposes of this Project, as established and evidenced by a current market value appraisal performed by a licensed, professional real estate appraiser, or a current property tax statement. COMMERCE will not consider appraisals for prospective values of such property for the purposes of calculating the amount of non-state matching fund credit.
- vii) In-kind contributions, subject to COMMERCE'S approval.

- B.** The GRANTEE shall maintain records sufficient to evidence that it has access to or has expended funds from such non-state sources, and shall make such records available for COMMERCE'S review upon reasonable request.

4. PREVAILING WAGE LAW

The Project funded under this Grant may be subject to state prevailing wage law (Chapter 39.12 RCW). The GRANTEE is advised to consult the Industrial Statistician at the Washington Department of Labor and Industries to determine whether prevailing wages must be paid. COMMERCE is not responsible for determining whether prevailing wage applies to this Project or for any prevailing wage payments that may be required by law.

5. DOCUMENTATION AND SECURITY

The provisions of this section shall apply to capital projects performed by nonprofit organizations and public benefit corporations that involve the expenditure of over \$500,000 in state funds. Projects for which the grant award or legislative intent documents specify that the state funding is to be used for design only are exempt from this section.

- A. Deed of Trust.** This Grant shall be evidenced by a promissory note and secured by a deed of trust or other appropriate security instrument in favor of COMMERCE (the "Deed of Trust"). The Deed of Trust shall be recorded in the County where the Project is located, and the original returned to COMMERCE after recordation within ninety (90) days of contract execution. The Deed of Trust must be recorded before COMMERCE will reimburse the GRANTEE for any Project costs. The amount secured by the Deed of Trust shall be the amount of the grant as set forth in Section 2, hereof.
- B. Term of Deed of Trust.** The Deed of Trust shall remain in full force and effect for a period of ten (10) years following the final payment of state funds to the GRANTEE under this grant. Upon satisfaction of the ten-year term requirement and all other grant terms and conditions, COMMERCE shall, upon written request of the GRANTEE, take appropriate action to reconvey the Deed of Trust.
- C. Title Insurance.** The GRANTEE shall purchase an extended coverage lender's policy of title insurance insuring the lien position of the Deed of Trust in an amount not less than the amount of the grant.
- D. Covenant.** If the project will be partially funded by a loan and the term of said loan is less than the commitment period under this grant contract, COMMERCE may require that GRANTEE record or cause to be recorded a covenant in a superior lien position ahead of the lender's security instrument that restricts use of the facility or property for the purpose(s) stated elsewhere in this contract for at least the term of the commitment period

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

- E. Subordination. COMMERCE may agree to subordinate its deed of trust upon request from a private or public lender. Any such request shall be submitted to COMMERCE in writing, and COMMERCE shall respond to the request in writing within thirty (30) days of receiving the request.

6. BASIS FOR ESTABLISHING REAL PROPERTY VALUES FOR ACQUISITIONS OF REAL PROPERTY PERFORMANCE MEASURES

When the grant is used to fund the acquisition of real property, the value of the real property eligible for reimbursement under this grant shall be established as follows:

- a. GRANTEE purchases of real property from an independent third-party seller shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser, or a current property tax statement.
- b. GRANTEE purchases of real property from a subsidiary organization, such as an affiliated LLC, shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser or the prior purchase price of the property plus holding costs, whichever is less.

7. EXPENDITURES ELIGIBLE FOR REIMBURSEMENT

The GRANTEE may be reimbursed, at the rate set forth elsewhere in this contract, for Project expenditures in the following cost categories:

- A. Real property, and costs directly associated with such purchase, when purchased or acquired solely for the purposes of the Project;
- B. Design, engineering, architectural, and planning;
- C. Construction management and observation (from external sources only);
- D. Construction costs including, but not limited to, the following:
 - Site preparation and improvements;
 - Permits and fees;
 - Labor and materials;
 - Taxes on Project goods and services;
 - Capitalized equipment;
 - Information technology infrastructure; and
 - Landscaping.

8. BILLING PROCEDURES AND PAYMENT

COMMERCE shall reimburse the GRANTEE for one-hundred percent (100%) of eligible Project expenditures, up to the maximum payable under this contract. When requesting reimbursement for expenditures made, the GRANTEE shall submit to COMMERCE a signed and completed Invoice Voucher (Form A-19), that documents capitalized Project activity performed – by budget line item – for the billing period.

The GRANTEE shall evidence the costs claimed on each voucher by including copies of each invoice received from vendors providing Project goods or services covered by the contract. The GRANTEE shall also provide COMMERCE with a copy of the cancelled check or electronic funds transfer, as applicable, that confirms that they have paid each expenditure being claimed. The cancelled checks or electronic funds transfers may be submitted to COMMERCE at the time the voucher is initially submitted, or within thirty (30) days thereafter.

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The voucher must be certified (signed) by an official of the GRANTEE with authority to bind the GRANTEE. The final voucher shall be submitted to COMMERCE within sixty (60) days following the completion of work or other termination of this contract, or within fifteen (15) days following the end of the state biennium unless contract funds are reappropriated by the Legislature in accordance with Section 19, hereof.

If GRANTEE has or will be submitting any of the invoices attached to a request for payment for partial reimbursement under another grant contract, GRANTEE must clearly identify such grant contracts in the transmittal letter and request for payment.

Each request for payment must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the Project since the last invoice was submitted, as well as a report of Project status to date. COMMERCE will not release payment for any reimbursement request received unless and until the Project Status Report is received. After approving the Invoice Voucher and Project Status Report, COMMERCE shall promptly remit a warrant to the GRANTEE.

COMMERCE will pay GRANTEE upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the GRANTEE.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the GRANTEE for services rendered if the GRANTEE fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Duplication of Billed Costs

The GRANTEE shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the GRANTEE, if the GRANTEE is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The GRANTEE is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees.

9. SUBCONTRACTOR DATA COLLECTION

GRANTEE will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subcontractors and the portion of Grant funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

10. INSURANCE

The GRANTEE shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state of Washington should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the GRANTEE, or Subgrantee, or agents of either, while performing under the terms of this Grant.

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The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. The insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The GRANTEE shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation or modification.

The GRANTEE shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, the GRANTEE shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The GRANTEE shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Additionally, the GRANTEE is responsible for ensuring that any Subgrantees provide adequate insurance coverage for the activities arising out of subgrants.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the GRANTEE for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Grant shall be \$2,000,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B. Subgrantees that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the GRANTEE and the GRANTEE's fiscal agent as beneficiary.
- C. The GRANTEE shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

GRANTEES and Local Governments that Participate in a Self-Insurance Program.

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from COMMERCE, the GRANTEE may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the GRANTEE shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. GRANTEE's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

GRANTEE shall provide annually to COMMERCE a summary of coverages and a letter of self-insurance, evidencing continued coverage under GRANTEE's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Agreement.

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11. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C – Certification of the Availability of Funds to Complete the Project
- Attachment D – Certification of the Payment and Reporting of Prevailing Wages
- Attachment E – Certification of Intent to Enter the Leadership in Energy and Environmental Design (LEED) Certification Process

12. REDUCTION IN FUNDS

In the event state funds appropriated for the work contemplated under this contract are withdrawn, reduced, or limited in any way by the Governor or the Washington State Legislature during the contract period, the parties hereto shall be bound by any such revised funding limitations as implemented at the discretion of COMMERCE, and shall meet and renegotiate the contract accordingly.

13. OWNERSHIP OF PROJECT/CAPITAL FACILITIES

COMMERCE makes no claim to any real property improved or constructed with funds awarded under this contract and does not assert and will not acquire any ownership interest in or title to the capital facilities and/or equipment constructed or purchased with state funds under this contract; provided, however, that COMMERCE may be granted a security interest in real property, to secure funds awarded under this contract. This provision does not extend to claims that COMMERCE may bring against the GRANTEE in recapturing funds expended in violation of this contract.

14. CHANGE OF OWNERSHIP OR USE FOR GRANTEE-OWNED PROPERTY

- A. The GRANTEE understands and agrees that any and all real property or facilities owned by the GRANTEE that are acquired, constructed, or otherwise improved by the GRANTEE using state funds under this contract, shall be held and used by the GRANTEE for the purpose or purposes stated elsewhere in this contract for a period of at least ten (10) years from the date the final payment is made hereunder.
- B. This provision shall not be construed to prohibit the GRANTEE from selling any property or properties described in this section; Provided, that any such sale shall be subject to prior review and approval by COMMERCE, and that all proceeds from such sale shall be applied to the purchase price of a different facility or facilities of equal or greater value than the original facility and that any such new facility or facilities will be used for the purpose or purposes stated elsewhere in this contract.
- C. In the event the GRANTEE is found to be out of compliance with this section, the GRANTEE shall repay to the state general fund the principal amount of the grant, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to Section 27 (Recapture provision) of the General Terms and Conditions.

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15. CHANGE OF USE FOR LEASED PROPERTY PERFORMANCE MEASURE

- A. The GRANTEE understands and agrees that any facility leased by the GRANTEE that is constructed, renovated, or otherwise improved using state funds under this contract shall be used by the GRANTEE for the purpose or purposes stated elsewhere in this contract for a period of at least ten (10) years from the date the final payment is made hereunder.
- B. In the event the GRANTEE is found to be out of compliance with this section, the GRANTEE shall repay to the state general fund the principal amount of the grant, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to Section 27 (Recapture provision) of the General Terms and Conditions.

16. MODIFICATION TO THE PROJECT BUDGET

- A. Notwithstanding any other provision of this contract, the GRANTEE may, at its discretion, make modifications to line items in the Project Budget (Attachment B), hereof, that will not increase the line item by more than fifteen percent (15%).
- B. The GRANTEE shall notify COMMERCE in writing (by email or regular mail) when proposing any budget modification or modifications to a line item in the Project Budget (Attachment B,) hereof, that would increase the line item by more than fifteen percent (15%). Conversely, COMMERCE may initiate the budget modification approval process if presented with a request for payment under this contract that would cause one or more budget line items to exceed the 15 percent (15%) threshold increase described above.
- C. Any such budget modification or modifications as described above shall require the written approval of COMMERCE (by email or regular mail), and such written approval shall amend the Project Budget. Each party to this contract will retain and make any and all documents related to such budget modifications a part of their respective contract file.
- D. Nothing in this section shall be construed to permit an increase in the amount of funds available for the Project, as set forth in Section 2 of this contract.

17. SIGNAGE, MARKERS AND PUBLICATIONS

If, during the period covered by this contract, the GRANTEE displays or circulates any communication, publication, or donor recognition identifying the financial participants in the Project, any such communication or publication must identify "The Taxpayers of Washington State" as a participant.

18. HISTORICAL AND CULTURAL ARTIFACTS

Prior to approval and disbursement of any funds awarded under this Contract, GRANTEE shall cooperate with COMMERCE to complete the requirements of Governor's Executive Order 05-05 or Executive Order 21-02, where applicable, or GRANTEE shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. GRANTEE agrees that the GRANTEE is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

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In addition to the requirements set forth in this Contract, GRANTEE shall, in accordance with Governor's Executive Order 05-05 or Executive Order 21-02 as applicable, coordinate with Commerce and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by Project. GRANTEE agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The GRANTEE agrees that, unless the GRANTEE is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural artifacts are discovered during construction, the GRANTEE shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the Commerce Representative identified on the Face Sheet. If human remains are uncovered, the GRANTEE shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The GRANTEE shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in this Contract, GRANTEE agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 05-05 and Executive Order 21-02.

In the event that the GRANTEE finds it necessary to amend the Scope of Work the GRANTEE may be required to re-comply with Governor's Executive Order 05-05, Executive Order 21-02, or Section 106 of the National Historic Preservation Act.

19. REAPPROPRIATION

- A. The parties hereto understand and agree that any state funds not expended by June 30, 2023 will lapse on that date unless specifically reappropriated by the Washington State Legislature. If funds are so reappropriated, the state's obligation under the terms of this contract shall be contingent upon the terms of such reappropriation.
- B. In the event any funds awarded under this contract are reappropriated for use in a future biennium, COMMERCE reserves the right to assign a reasonable share of any such reappropriation for administrative costs.

20. TERMINATION FOR FRAUD OR MISREPRESENTATION

In the event the GRANTEE commits fraud or makes any misrepresentation in connection with the Grant application or during the performance of this contract, COMMERCE reserves the right to terminate or amend this contract accordingly, including the right to recapture all funds disbursed to the GRANTEE under the Grant.

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21. APPLICABILITY OF COPYRIGHT PROVISIONS TO ARCHITECTURAL/ENGINEERING DESIGN WORK

The "Copyright Provisions", Section 13 of the General terms and Conditions, are not intended to apply to any architectural and engineering design work funded by this grant.

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1. DEFINITIONS

As used throughout this Grant, 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. "GRANTEE" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the GRANTEE.
- D. "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.
- E. "State" shall mean the state of Washington.
- F. "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.
- G. "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.
- H. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

2. 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.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by COMMERCE.

4. 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.

5. 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.

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6. 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.

7. 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.

8. ATTORNEYS’ FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys fees and costs.

9. AUDIT

A. General Requirements

COMMERCE reserves the right to require an audit. If required, GRANTEEs 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 subgrantees also maintain auditable records.

The GRANTEE is responsible for any audit exceptions incurred by its own organization or that of its subgrantees.

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

Responses to any unresolved management 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 subcontracts.

In any case, the GRANTEE’s records must be available for review by COMMERCE.

C. Documentation Requirements

The GRANTEE must send a copy of the audit report described above no later than nine (9) months after the end of the GRANTEE’s fiscal year(s) by sending a scanned copy to auditreview@commerce.wa.gov or a hard copy to:

Department of Commerce
ATTN: Audit Review and Resolution Office
1011 Plum Street SE
PO Box 42525
Olympia WA 98504-2525

In addition to sending a copy of the audit, when applicable, the GRANTEE must include:

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- Corrective action plan for audit findings within three (3) months of the audit being received by COMMERCE.
- Copy of the Management Letter.

If the GRANTEE is required to obtain a Single Audit consistent with Circular A-133 requirements, a copy must be provided to COMMERCE; no other report is required.

10. BREACHES OF OTHER STATE CONTRACTS

GRANTEE is expected to comply with all other contracts executed between GRANTEE and the State of Washington. A breach of any other agreement entered into between GRANTEE and the State of Washington may, in COMMERCE's discretion, be deemed a breach of this Agreement.

11. 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.

12. 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 contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the GRANTEE in the procurement of, or performance under this contract.

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Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The GRANTEE and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on this Grant, or any matter related to the project funded under this Grant or any other state funded project, including but not limited to formulating or drafting legislation, participating in grant procurement, planning and execution, awarding grants, or monitoring grants, during the 24 month period preceding the start date of this Grant. Any person identified by the GRANTEE and their subcontractors(s) must be identified individually by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the GRANTEE may be disqualified from further consideration for the award of a Grant.

In the event this contract 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 contract 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 contract.

13. 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.

14. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the GRANTEE's name, address, and Contract number; and

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- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

15. 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.

16. GOVERNING LAW AND VENUE

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

17. 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 attorneys 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.

18. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent contractor relationship will be created by this Grant. The GRANTEE and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The GRANTEE will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the GRANTEE make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the GRANTEE.

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19. INDUSTRIAL INSURANCE COVERAGE

The GRANTEE shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the GRANTEE fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the GRANTEE the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the GRANTEE to the accident fund from the amount payable to the GRANTEE by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the GRANTEE.

20. 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.

21. 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.

22. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Authorized Representative.

23. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the GRANTEE shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the GRANTEE'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 GRANTEE may be declared ineligible for further Grants with COMMERCE. The GRANTEE 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. The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this grant.

24. PAY EQUITY

The GRANTEE agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- a. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- b. GRANTEE may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - (i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

(ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by COMMERCE, if COMMERCE or the Department of Enterprise services determines that the GRANTEE is not in compliance with this provision.

25. POLITICAL ACTIVITIES

Political activity of GRANTEE 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.

26. 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.

27. 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.

28. 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.

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.

29. REGISTRATION WITH DEPARTMENT OF REVENUE

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

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

30. 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.

31. 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 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.

32. 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.

33. 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.

34. SUBGRANTING/SUBCONTRACTING

Neither the GRANTEE nor any subgrantee/subcontractor shall enter into subgrants/subcontracts for any of the work contemplated under this contract without obtaining prior written approval of COMMERCE. In no event shall the existence of the subgrant/subcontract operate to release or reduce the liability of the GRANTEE to COMMERCE for any breach in the performance of the GRANTEE's duties. This clause does not include Grants of employment between the GRANTEE and personnel assigned to work under this Grant.

Additionally, the GRANTEE is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subgrants/subcontracts. GRANTEE and its subgrantees/subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of COMMERCE or as provided by law.

35. 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.

36. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the GRANTEE's income or gross receipts, any other taxes, insurance or expenses for the GRANTEE or its staff shall be the sole responsibility of the GRANTEE.

37. TERMINATION FOR CAUSE

In the event COMMERCE determines the GRANTEE has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant.

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

Before suspending or terminating the Grant, COMMERCE shall notify the GRANTEE in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

In the event of termination or suspension, the GRANTEE shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the GRANTEE from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the GRANTEE or a decision by COMMERCE to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the GRANTEE: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

38. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

39. TERMINATION PROCEDURES

Upon termination of this Grant, COMMERCE, in addition to any other rights provided in this Grant, may require the GRANTEE to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the GRANTEE the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the GRANTEE and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AUTHORIZED REPRESENTATIVE shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. COMMERCE may withhold from any amounts due the GRANTEE such sum as the AUTHORIZED REPRESENTATIVE determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the AUTHORIZED REPRESENTATIVE, the GRANTEE shall:

1. Stop work under the Grant on the date, and to the extent specified, in the notice;
2. Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;

**GENERAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

3. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the AUTHORIZED REPRESENTATIVE, all of the rights, title, and interest of the GRANTEE under the orders and subgrants/subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AUTHORIZED REPRESENTATIVE to the extent AUTHORIZED REPRESENTATIVE may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the AUTHORIZED REPRESENTATIVE any property which, if the Grant had been completed, would have been required to be furnished to COMMERCE;
6. Complete performance of such part of the work as shall not have been terminated by the AUTHORIZED REPRESENTATIVE; and
7. Take such action as may be necessary, or as the AUTHORIZED REPRESENTATIVE may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the GRANTEE and in which COMMERCE has or may acquire an interest.

40. 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.

41. 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.

Scope of Work

Funds awarded under this grant shall be used by Whatcom County for the Way Station project located at 1500 N. State Street, Bellingham, WA.

This will include, but not be limited to, a full renovation of the existing facility, (except existing first floor area devoted to the Morgue). The renovation will include first floor tenant improvements to accommodate the respite care and support services for unsheltered individuals. Additionally, the improvements will consist of seismic upgrades of the building, full replacement of the HVAC system, replacement of the existing fire suppression system, and energy efficient electrical lighting upgrades to meet the state energy code. Second floor improvements will consist of new office areas for tenants that provide services and support for the care occurring on the first floor.

This project will serve as a benefit to the public by providing safety and comfort so the facility can continue to serve in housing, school and work readiness, health and social justice.

The project is anticipated to be completed by September 2023.

Costs related to the work will only be reimbursed to the extent the work is determined by Commerce to be within the scope of the legislative appropriation.

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that the Scope of Work set forth above has been reviewed and approved by the GRANTEE's governing body as of the date and year written below.

GRANTEE

TITLE

DATE

Budget

Line Item	Amount
Architecture & Engineering	\$800,000.00
Construction	\$8,365,000.00
Construction Management	\$200,000.00
Other: Permitting	\$50,000.00
Total Contracted Amount:	\$9,415,000.00

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that the Project Budget set forth above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, as of the date and year written below.

 GRANTEE

 TITLE

 DATE

Certification of the Availability of Funds to Complete the Project

Non-State Funds	Amount	Total
PeaceHealth and Donald Berry Donations	\$415,000.00	
First Federal Community Foundation	\$50,000.00	
Mount Baker Foundation	\$50,000.00	
County Project Budget	\$2,400,000.00	
County American Rescue	\$1,500,000.00	
City of Bellingham	\$1,000,000.00	
Total Non-State Funds		\$5,415,000.00
State Funds		
State Capital Budget	\$4,000,000.00	\$4,000,000.00
Total Non-State and State Sources		\$9,415,000.00

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that project funding from sources other than those provided by this contract and identified above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, and has either been expended for eligible Project expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this Project as described in elsewhere in this contract, as of the date and year written below. The GRANTEE shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the Project, and shall make such records available for COMMERCE'S review upon reasonable request.

GRANTEE

TITLE

DATE

Certification of the Payment and Reporting of Prevailing Wages

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that all contractors and subcontractors performing work on the Project shall comply with prevailing wage laws set forth in Chapter 39.12 RCW, as of May 18, 2021 (for the 21-23 biennium), including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The GRANTEE shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE'S review upon request.

If any state funds are used by the GRANTEE for the purpose of construction, applicable State Prevailing Wages must be paid.

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body as of the date and year written below.

GRANTEE

TITLE

DATE

**Certification of Intent to Enter the
Leadership in Energy and Environmental Design (LEED) Certification Process**

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that it will enter into the Leadership in Energy and Environmental Design certification process, as stipulated in RCW 39.35D, as applicable to the Project funded by this contract. The GRANTEE shall, upon receipt of LEED certification by the United States Green Building Council, provide documentation of such certification to COMMERCE.

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, as of the date and year written below.

GRANTEE

TITLE

DATE



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-230

File ID:	AB2022-230	Version:	1	Status:	Agenda Ready
File Created:	04/07/2022	Entered by:	DPierce@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: dpierce@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State Office of the Attorney General for Sexual Assault Kit Initiative Grant, in the amount of \$3,000.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Staff Memo, Contract



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Bill Elfo, Sheriff *BE*

DATE: April 4, 2022

SUBJECT: Washington State Office of the Attorney General
Federal Grant Award: SAKI 2017-AK-BX-0016
AGO Grant Agreement #RU-22-36

Enclosed for your review and signature is one (1) original agreement between Whatcom County Sheriff's Office and Attorney General of Washington for federal grant award of \$3,000.00.

Background and Purpose

In a letter dated March 14, 2022, the Washington State Office of the Attorney General (AGO) awarded the Whatcom County Sheriff's Office an indirect federal grant to purchase a refrigeration unit to store DNA samples from sexual assault investigations.

The Sheriff's Office applied for this grant May 5, 2021 and the performance period was anticipated to be May through September 2021. However, the AGO requested their federal partner to extend this grant an additional year. Funds were awarded March 14, 2022 and the performance period is March 31, 2022 through September 30, 2022.

Funding Amount and Source

Award of \$3,000.00 from the Washington State Office of the Attorney General, Sexual Assault Kit Initiative (SAKI) Project, funded by a grant from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, CFDA 16.833.

Differences from Previous Contract

N/A

Please contact Undersheriff Doug Chadwick at extension 6618 if you have any questions regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	35 Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	3540 Bureau of Support Services / 354011 Records
Contract or Grant Administrator:	Undersheriff Doug Chadwick
Contractor's / Agency Name:	Attorney General of Washington
Is this a New Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> 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 checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): <u>RU-22-36</u> CFDA#: <u>16.833</u>	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract _____ Cost Center: <u>1003522001</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> 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"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" 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): \$ <u>3,000.00</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>3,000.00</u> Summary of Scope:	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 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.
Indirect Federal Grant award from Attorney General of Washington to purchase a refrigeration unit to store DNA samples from sexual assault investigations.	
Term of Contract: March 31, 2022	Expiration Date: September 30, 2022

Contract Routing:	1. Prepared by: <u>Dawn Pierce</u> <u>DMP</u>	Date: <u>03/28/22</u>
	2. Attorney signoff: <u>Approved by email BW/dmp</u>	Date: <u>04/07/22</u>
	3. AS Finance reviewed: <u>Approved by email BB/dmp</u>	Date: <u>04/05/22</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

Dawn Pierce

From: Brandon Waldron
Sent: Thursday, April 07, 2022 8:00 AM
To: Dawn Pierce
Subject: RE: AGO SAKI Grant

Looks good on my end.

From: Dawn Pierce
Sent: Tuesday, April 5, 2022 9:13 AM
To: Brandon Waldron <BWaldron@co.whatcom.wa.us>; Brad Bennett <BBennett@co.whatcom.wa.us>
Cc: Donna Duling <DDuling@co.whatcom.wa.us>
Subject: AGO SAKI Grant

Brandon / Brad,

Attached for your review and approval is AGO SAKI Grant Award of \$3,000 to purchase a refrigeration unit.

Please let me know if questions.

Thank you.

Dawn Pierce
Sr. Administrative Assistant
Whatcom County Sheriff's Office
311 Grand Avenue, Bellingham, WA 98225
Phone 360-778-6606



Dawn Pierce

From: Brad Bennett
Sent: Tuesday, April 05, 2022 9:25 AM
To: Dawn Pierce; Brandon Waldron
Cc: Donna Duling
Subject: RE: AGO SAKI Grant

Looks fine to me. Consider this email Finance's sign off on the agreement.

From: Dawn Pierce
Sent: Tuesday, April 05, 2022 9:13 AM
To: Brandon Waldron <BWaldron@co.whatcom.wa.us>; Brad Bennett <BBennett@co.whatcom.wa.us>
Cc: Donna Duling <DDuling@co.whatcom.wa.us>
Subject: AGO SAKI Grant

Brandon / Brad,

Attached for your review and approval is AGO SAKI Grant Award of \$3,000 to purchase a refrigeration unit.

Please let me know if questions.

Thank you.

Dawn Pierce
Sr. Administrative Assistant
Whatcom County Sheriff's Office
311 Grand Avenue, Bellingham, WA 98225
Phone 360-778-6606





Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Financial Services Division

PO Box 40107 • Olympia, WA 98504-0107 • (360) 586-3003

March 14, 2022

Whatcom County Sheriff's Office
Contact: Donna Duling
DUNS 060044641
311 Grand Avenue
Bellingham, WA 98225

RE: **Federal Grant Info:** SAKI 2017-AK-BX-0016 Grant; CFDA 16.833; US DOJ, OJP, BJA;
10/1/17-9/30/22; Attorney General of Washington (pass-thru agency) Award \$3,000,000

Subrecipient: Whatcom County Sheriff's Office

Contract: RU-22-36

Subaward: up to \$3,000.00 for Purchase of Requested Refrigeration Unit

The Washington State Office of the Attorney General (AGO) is pleased to announce that the Whatcom County Sheriff's Office has been selected to receive an award to purchase a refrigeration unit to help with storage of evidence from sexual assault investigations as outlined in the Subrecipient Commitment form that your agency submitted to AGO Grants.

Please sign and date below to acknowledge acceptance of this grant and return to FISGrants@atg.wa.gov by March 31, 2022. Please review the attached A19-1 Voucher form and verify that your statewide vendor number is correct.

This is a cost reimbursement grant and funds will not be awarded in advance. Upon purchase of this unit, please submit any invoices and receipts for reimbursement along with a photo of the purchased refrigeration unit to FISGrants@atg.wa.gov. The unit must be purchased and received prior to September 30, 2022.

The Attorney General's Office would like to thank you for your commitment to public safety and for partnering with the AGO in its efforts to address the accumulation of unsubmitted sexual assault kits and provide answers to survivors and their families.

We look forward to our continued partnership on this important project. If you have any questions, please email FISGrants@atg.wa.gov.

Sincerely,

John C. Hillman

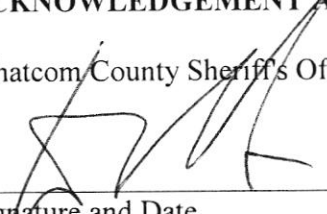
John Hillman, Division Chief
Criminal Justice

Attachments

cc: Mike Webb, Chief of Staff
Mark Melroy, Chief Financial Officer
Brionna Aho, Communications Director
Katharine Hemann, AAG, SAKI Site Coordinator
Marci Phillips, Grant Manager
Cherié Norris, Grant and Contract Supervisor

ACKNOWLEDGEMENT AND ACCEPTANCE OF GRANT AWARD

Whatcom County Sheriff's Office


Signature and Date

03/24/22

Dave CHADWICK, UNDERSHERIFF
Printed Name and Title

Approved as to form:

Approved:
Accepted for Whatcom County:

NOTARY PUBLIC in and for the State of Washington, residing at _____.
My commission expires _____.



Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Financial Services Division

PO Box 40107 • Olympia, WA 98504-0107 • (360) 586-3003

March 14, 2022

Greetings:

As you know, in 2017 my office launched a Sexual Assault Kit Initiative (SAKI) to address the accumulation of unsubmitted sexual assault kits, and holistically improve our state's response to sexual assault. Thanks to the work of our Initiative and others, the state has cut the backlog of untested sexual assault kits in half. This project is a collaborative effort with law enforcement, victim advocates, sexual assault nurse examiners, prosecutors, and others.

As part of that partnership, I am pleased to announce that your agency is selected to receive an award from my office to purchase a refrigeration unit for storage of evidence from sexual assault investigations.

Working together, we will solve these crimes, to hold those responsible accountable, and to find justice for victims.

Thank you for your commitment to public safety and for tackling these difficult cases. We are honored to play a part in nationwide efforts to address the accumulation of unsubmitted sexual assault kits and to contribute to your important work.

Sincerely,

BOB FERGUSON
Attorney General

Organization Name	Whatcom County Sheriff's Office
Grant Agreement #	RU-22-36
Grant Start Date:	March 14, 2022
Grant End Date:	September 30, 2022
Organization Contact Name:	Donna Duling

Sales Quotation

*Quote Nbr	Creation Date	Due Date	Page
2087-0023-21	03/28/2022		1 of 1
Payment Terms		Delivery Terms	
NET 30 DAYS		DEST	
Valid To		Prepared By	
07/26/2022		NIGRO, TYLER	
Customer Reference		Sales Representative	
QTE/ROGER/03/25		TYLER NIGRO	
To place an order	Ph: 800-766-7000	Fx: 800-926-1166	
Submitted To:		Customer Account: 024009-001	
ROGER FUNK TYLER.NIGRO@THERMOFISHER.COM 360-733-9429		WHATCOM COUNTY SHERIFFS OFFICE 311 GRAND AVE BELLINGHAM WA 98225	

**Fisher Scientific**

Part of Thermo Fisher Scientific

FISHER SCIENTIFIC COMPANY LLC
 4500 TURNBERRY DRIVE
 HANOVER PARK IL 60133-5491

[Review and Place Order](#)

[Click here or go through your purchasing system to fishersci.com quotes](#)

***Please reference this Quote Number on all correspondence.**

Don't have a profile? Register on fishersci.com

For complete Terms and Conditions, please [click here](#).

Nbr	Qty	UN	Catalog Number	Description	Unit Price	Extended Price
1	1	EA	FBV20RPSA	20 CF ISOTEMP REF 115V60HZ Fisherbrand Value Convertible Refrigerator/Freezer, Amperage: 2.2 A, Capacity: 21 cu. ft., 594 L, Casters: 2 adjustable leveling feet, White, Compressor: Bottom mounted, Defrost: Automatic, Door Style: Hinged, open left to right, non-reversible, Exterior Finish: White enameled steel, Voltage: 115 V Vendor Catalog # FBV20RPSA Hazardous Material This item is being sold as 1 per each	2,747.97	2,747.97
MERCHANDISE TOTAL						2,747.97
Fuel Surcharge						6.20
Estimated Sales Tax						242.36
TOTAL						2,996.53

NOTES:

We now offer highly competitive financing with low monthly payments. Please contact your local sales representative for more information.

Tell us about your recent customer service experience by completing a short survey. This should take no longer than three minutes. Enter the link into your browser and enter the passcode: USA-PGH-CS2

<http://survey.medallia.com/fishersci>



Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Financial Services Division

PO Box 40107 • Olympia, WA 98504-0107 • (360) 586-3003

April 23, 2021

RE: SAKI 2017-AK-BX-0016 Grant – Refrigeration Units

To All Washington Law Enforcement Agencies:

The Attorney General's Office would like to thank you for your commitment to public safety and for partnering with the AGO in its efforts to address the accumulation of unsubmitted sexual assault kits and provide answers to survivors and their families. The AGO received permission to utilize a portion of its National Sexual Assault Kit Initiative grant to help law enforcement agencies purchase refrigeration units. You are receiving this letter and the attached form because your agency expressed interest in receiving grant funds to purchase refrigeration units to help with storage of DNA samples.

Currently, funding for this grant ends September 30, 2021. While we are asking our federal partner to extend this grant an additional year due to COVID-19, it is unknown if our request will be granted. Please fill out the attached form and check one or both – if you can purchase and receive the refrigeration unit by September 30, 2021 and/or December 31, 2021.

You will be notified if you have been approved as a subrecipient and what the grant amount is. At that time, a training will be scheduled on what is required as a subrecipient and an agreement executed. Please note this is a cost reimbursement grant and funds will not be awarded in advance.

We look forward to our continued partnership on this important project. If you have any questions, please email FISGrants@atg.wa.gov.

Sincerely,

John Hillman, Division Chief, Criminal Justice

cc: Katherine Hemann, AAG, SAKI Site Coordinator
Cherié Norris, Grants and Contracts Coordinator Lead

SUBRECIPIENT COMMITMENT FORM

Please complete all sections to be considered for the 2017-AK-BX-0016 SAKI grant purchase of a refrigeration unit. This form must be approved and signed by your department's authorized official.

Section A: Project Information

Legal Name of Subrecipient's Organization: Whatcom County Sheriff's Office

Project Contact: Records/ID Manager Ann Bjertness

Project Contact Email: abjertne@co.whatcom.wa.us

Street Address: 311 Grand Ave.

City, State, Zip: Bellingham, WA 98225

Phone: 360-778-6600

Subaward Type: Cost Reimbursement

Period of Performance: Begin Date: when contract is awarded; End Date: TBD – please answer questions below:

1: Funds must be spent by September 30, 2021 (this includes actual receipt of the unit), would you be able to meet this deadline? Yes xx No

2: If granted an extension to December 31, 2021 (this includes actual receipt of the unit), would you be able to meet this deadline? Yes xx No

If you answered "yes" to questions 1 or 2 above, please complete this form and provide any necessary documents in the remaining sections.

Section B: Proposal Documents

Statement of Work (required) -

1. What will the refrigeration unit be used for?
To store evidence that requires refrigeration specially DNA samples

2. Where will the refrigeration unit be located?
Evidence Room at the Whatcom County Sheriff's Office

Budget and Budget Justification (required) -

1. Refrigeration unit to be purchased from? Fisher Scientific
2. Include product description along with a link to the manufacturer's website:
TSV20RPSA (SEE QUOTE) SEE ATTACHMENT A
3. Cost of unit \$2634.96
4. Shipping costs included
5. Sales tax \$233.54
6. Attach resumes of all key personnel that will be working with the grant funds.
7. Attach organization chart(s). SEE ATTACHMENT B

Section C: Subrecipient's Institutional Information

DUNS#: 060044641 EIN: 91-6001383

1. Is your organization presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any federal department or agency or delinquent on repayment of any federal debt including direct and guaranteed loans and other debt as defined in 2 CFR Part 200 Uniform Guidance?

Yes ___ No X N/A ___

2. Have any lobbying activities been or will any be conducted regarding this proposal?

Yes ___ No X N/A ___

3. Does your organization certify that it currently has a compliant Financial Conflict of Interest (FCOI) policy and a Financial Disclosure for each of the Subrecipient's key personnel? Yes X No ___ N/A ___

Section D: Risk Analysis

1. Subrecipient is a: Mature (5+years in operation) X
+5 years managing grants ___
Start-up ___
2. Subrecipient has: X >50 employees ___ <50 employees

3. Subrecipient is a direct recipient of any Federal awards: Yes X No

A-133 audit is required in any year that your organization spends in excess of \$750K of grant money that has originated from federal funding sources. Has your organization received in excess of \$750K of federal funds within the last two years? Yes

4. Subrecipient has: A-133 audit X No audit report

5. Subrecipient has: Existing or prior contracts issued from AGO X
No existing or prior contracts issued from AGO

a. If subrecipient has existing or prior contracts with AGO, list all contract numbers:
Contract #9708020

b. Subrecipient X has not defaulted on any existing or prior contracts or is aware of any prior negative experiences.

Section E: Comments

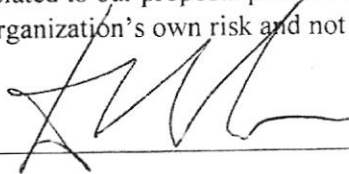
If you are chosen as a subrecipient, the following items will be required:

1. Statewide Vendor Number
2. System for Award Management (SAM) registration <https://www.sam.gov/SAM/>
3. Secretary of State (SOS) registration (if applicable) <https://www.sos.wa.gov/>
4. Department of Revenue registration (if applicable) <https://dor.wa.gov/>

Subrecipient is responsible for verifying registration requirements with the Department of Revenue (<https://dor.wa.gov/doing-business/register-my-business>) and the Office of the Secretary of State.

Section F: Subrecipient's Authorized Official approval

I certify that the information provided is true and correct. I am the authorized official of the Subrecipient named herein, and I have the authority to legally bind my organization in grants administration matters. I understand that: (a) any work we begin and/or expenses we incur related to our proposal prior to full execution of a subaward agreement will be at my organization's own risk and not covered by this award.



Signature of Subrecipient's Authorized Official Name

May 5, 2021

Date

Undersheriff Doug Chadwick

Name and Title of Authorized Official

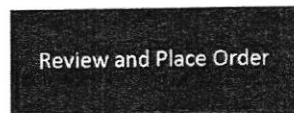
ATTACHMENT A

Sales Quotation			
*Quote Nbr	Creation Date	Due Date	Page
1120-3433-16	04/30/2021		1 of 1
Payment Terms		Delivery Terms	
NET 30 DAYS		DEST	
Valid To		Prepared By	
08/28/2021		EVON, JENNIFER A.	
Customer Reference		Sales Representative	
RFQ/REFRIGERATOR 20 CF		JENNIFER EVON	
To place an order	Ph: 800-766-7000	Fx: 800-926-1166	
Submitted To:		Customer Account: 024009-001	
ANN BJERTNESS ABJERTNE@CO.WHATCOM.WA.US 360-778-6675		WHATCOM COUNTY SHERIFFS OFFICE 311 GRAND AVE BELLINGHAM WA 98225 ATTN: ANN	



Part of Thermo Fisher Scientific

FISHER SCIENTIFIC COMPANY LLC
4500 TURNBERRY DRIVE
HANOVER PARK IL 60133-5491



[Click here or go through your purchasing system to fishersci.com quotes](#)

***Please reference this Quote Number on all correspondence.**

Don't have a profile? Register on fishersci.com

For complete Terms and Conditions, please [click here](#).

Nbr	Qty	UN	Catalog Number	Description	Unit Price	Extended Price
1	1	EA	TSV20RPSA	20 CF TSV REF 115V/60HZ	2,634.96	2,634.96
				Vendor Catalog # TSV20RPSA		
				Hazardous Material		
				This item is being sold as 1 per each		
MERCHANDISE TOTAL						2,634.96
Fuel Surcharge						3.95
Estimated Sales Tax						229.59
TOTAL						2,868.50

NOTES:

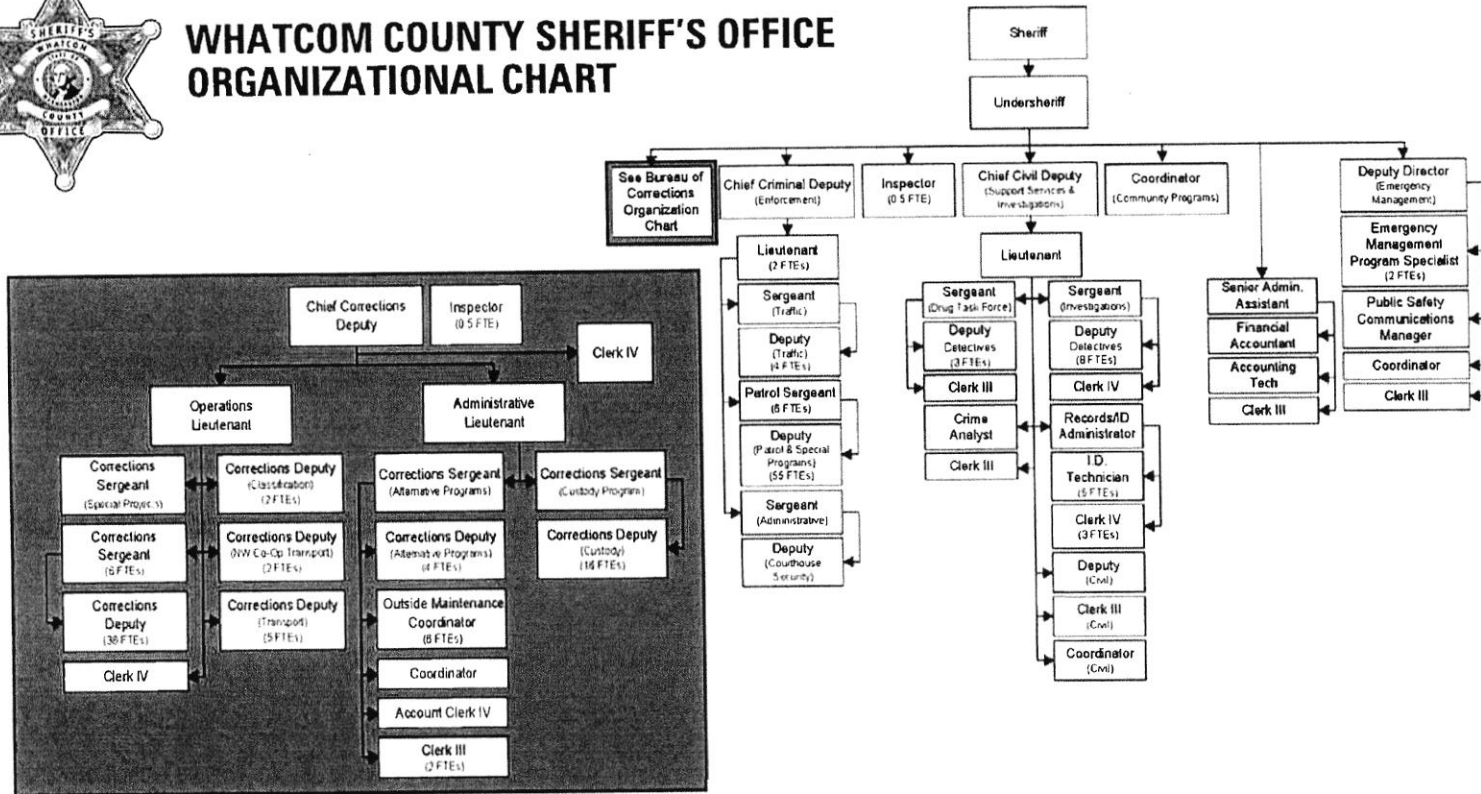
We now offer highly competitive financing with low monthly payments. Please contact your local sales representative for more information.

Tell us about your recent customer service experience by completing a short survey. This should take no longer than three minutes. Enter the link into your browser and enter the passcode: USA-PGH-CS2

<http://survey.medallia.com/fishersci>



WHATCOM COUNTY SHERIFF'S OFFICE ORGANIZATIONAL CHART



ATTACHMENT B



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-233

File ID:	AB2022-233	Version:	1	Status:	Agenda Ready
File Created:	04/13/2022	Entered by:	SDraper@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request approval for the Executive to enter into a contract between Whatcom County and Taylor Driving Schools to provide Class-A Commercial Driver License (CDL) training to Public Works Maintenance and Operations employees, in the amount of \$60,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See memo

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Staff Memo, Proposed Contract

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**



Maintenance and Operations Division
901 W. Smith Road
Bellingham, WA 98226-9610
Phone (360) 778-6400
Fax (360) 778-6401
Andy Bowler, Superintendent

Jon Hutchings
Director

MEMORANDUM

To: Satpal Sidhu, County Executive
Through: Elizabeth Kosa, Assistant Public Works Director
From: Gina Miller, Public Works Maintenance and Operations Assistant Superintendent *EUM*
Andy Bowler, Public Works Maintenance & Operations Superintendent *Eum for AB*
Date: February 15, 2022
Re: Taylor Driving Schools Contract for Class A CDL Training

Requested Action

I am requesting Executive approval to enter into a contract with Taylor Driving Schools to provide Class-A Commercial Driver License (CDL) training to Public Works Maintenance and Operations employees.

Background and Purpose

Public Works Maintenance & Operations Division requires Road Maintenance Workers to obtain their Class-A CDL within 18 months of hire. Federal law changes regarding training for CDL licensing are now prohibitive to internal training. As a result, we will need to send employees to a professional driving school for 160 hours to train and test for their CDL.

Funding Amount and Source

The source of funding for this agreement, in the amount not to exceed \$60,000, is Road Funds.

Differences from Previous Contract

Previous agreements for outside CDL training have been completed two ways. First under a LOA between maintenance and Operations and the contractor. Second, due to a high number of employees that needed training, we requested a contract for up to \$22,000. Due to the increased cost of the longer training, we are requesting to enter into a contract to allow us to provide training for up to 12 employees through 2022.

Please contact Gina Miller at extension 6423 or Andy Bowler at extension 6417 if you have any questions or concerns.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: _____	
Division/Program: <i>(i.e. Dept. Division and Program)</i> _____	
Contract or Grant Administrator: _____	
Contractor's / Agency Name: _____	
<p>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No</p> <p>Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes No If No, include WCC: _____</p> <p>Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</p> <p>Is this a grant agreement?</p> <p>Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded?</p> <p>Yes No If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract</p> <p>Yes No If yes, RFP and Bid number(s): _____ Cost Center: _____</p> <p>Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <div style="display: flex; justify-content: space-between;"> <div> <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 work is for less than 120 days. <input type="checkbox"/> Interlocal Agreement (between Governments). </div> <div> <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. </div> </div>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ _____</p> <p>This Amendment Amount: \$ _____</p> <p>Total Amended Amount: \$ _____</p>	<p>Council approval required for; all property leases, contracts or bid awards exceeding \$40,000, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:</p> <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: _____	
Term of Contract: _____	Expiration Date: _____

Contract Routing:	1. Prepared by: _____ Date: _____ 2. Attorney signoff: _____ Date: _____ 3. AS Finance reviewed: _____ Date: _____ 4. IT reviewed (if IT related): _____ Date: _____ 5. Contractor signed: _____ Date: _____ 6. Submitted to Exec.: _____ Date: _____ 7. Council approved (if necessary): _____ Date: _____ 8. Executive signed: _____ Date: _____ 9. Original to Council: _____ Date: _____
-------------------	--

CONTRACT FOR SERVICES
Between Whatcom County and Taylor Driving Schools

Taylor Driving Schools 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), p. 14
Exhibit B (Compensation), p. 15
Exhibit C (Certificate of Insurance)

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 **1st day of May, 2022**, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the **30th day of April, 2023**.

The general purpose or objective of this Agreement is to: provide Class-A Commercial Driver's License (CDL) training to Whatcom County Public Works employees, 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 **\$60,000.00**. 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 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.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

CONTRACTOR:

TAYLOR DRIVING SCHOOLS

Edward Taylor, Owner

CONTRACTOR INFORMATION:

Taylor Driving Schools
Edward Taylor, Owner

Address:

650 N Burlington Blvd

Burlington, WA 98233

Mailing Address:

PO Box 589

Burlington, WA 98233

WHATCOM COUNTY:
Recommended for Approval:

Jon Hutchings, Public Works Director _____ Date _____

Approved as to form:

Christopher Quinn, Senior Prosecuting Attorney	Date
--	------

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

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	\$1,000,000.00, 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. Professional Liability

Professional Liability - \$1,000,000 per occurrence

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

3. 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.

4. 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 (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to ensure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Gina Miller, Assistant Superintendent
Whatcom County Public Works
901 W. Smith Rd.
Bellingham, WA 98226
Phone: 360-778-6423
gmiller@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:

Edward C Taylor, Owner
Taylor Driving Schools
PO Box 589
Burlington, WA 98233
360-961-5970

Gina Miller, Assistant Superintendent
Whatcom County Public Works
901 W. Smith Rd.
Bellingham, WA 98226
360-778-6400
gmiller@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1)

working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

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

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

40.1 Modifications:

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

40.2 Contractor Commitments, Warranties and Representations:

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

41.1 Severability:

Contract for Services
Class-A CDL Training

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)

Contractor will provide Class-A CDL training for up to 20 County employees in County vehicles, up to a week each.
The maximum consideration for this agreement shall not exceed \$60,000.00

The Contractor shall provide Commercial Driver's License Training to include the following:

1. Tuition for a DOT Approved Class-A CDL Training Course
2. Books
3. Supplies
4. Materials
5. Class-A CDL Learners Permit Written Exam Prep Training
6. Pre-trip Walk Around Truck & Trailer Inspection Training
7. Final DOL Written Exam and DOL CDL Driver Skills Test Prep Training
8. Fifth Wheel Tractor Trailer Training (no doubles required by this Employer)
9. Manual Transmission Endorsement Training
10. Combination Training
11. Air-Brakes Training
12. Tanker Endorsement Training
13. Any and all additional training required to complete course studies in pursuit of obtaining a Class-A CDL License (without equipment operational restrictions) in Washington State
14. Contractor must be able to accommodate 1-9 students per class, with a maximum total of up to 20 students annually
15. Minimum 160 training hours include listed training below OR current Federal requirement at time of training;
 - a. 40 hours classroom instruction
 - b. 18 hours street driving training
 - c. 16 hours training in backing maneuvers
 - d. 16 hours proficiency development
 - e. 70 hours combined lab training, range training and observation
16. Daily training schedule to consist of 10-hours per day, 4-days per week (Monday-Thursday) for a total of 4-consecutive weeks = 160 hours.
17. Contractor will provide classroom facilities, educational materials, supplies and equipment, such as fifth wheel tractor trailer(s) for County employees.
18. Contractor will notify the County in writing (e-mail is sufficient) on the date of offense for any student that is absent from training or tardy
19. Contractor will notify the County in writing (e-mail is sufficient) if any student is found to be failing academic or practical performance standards
20. Upon completion of training, the Contractor will furnish the County with a written report of each student's overall performance (scanned copy of report card via email is sufficient).

The following expenses are NOT be included in this training program and will be paid by student directly to Taylor Driving Schools;

- a) DOL Written Exam Fee

EXHIBIT "B"
(COMPENSATION)

I. Tuition and Fees

1. Registration Fee	\$100
2. Tuition	\$4400.00
3. Books	\$200.00
Total per student	\$4700.00

The source of funding for this agreement, in the amount not to exceed \$60,000, is Road funds.

II. Invoicing

1. The Contractor shall submit itemized invoices on a monthly/quarterly basis in a format approved by the County. Monthly/quarterly invoices must be submitted by the 15th of the month following the month of service. Invoice may be submitted at the time of student registration.
2. The Contractor shall submit invoices to (include Contract #):

Attn: Gina Miller, Assistant Superintendent
Whatcom County Public Works
901 W. Smith Rd.
Bellingham, WA 98226
gmiller@co.whatcom.wa.us

cc: John DeLappe, Purchasing Coordinator
jdelappe@co.whatcom.wa.us

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 provided under this contract if the Contractor has been or will be paid by any other source. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.
6. If the Agreement covers "public work" as defined by RCW and WAC, then Contractor shall submit "Intent to Pay Prevailing Wages" and "Affidavits of Wages Paid" per all applicable Washington State Prevailing Wage Law and as more fully defined in RCW 39.04, RCW 39.12 and WAC 296-127.

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-234

File ID:	AB2022-234	Version:	1	Status:	Agenda Ready
File Created:	04/13/2022	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide case management and supportive services to individuals and households experiencing or at-risk of experiencing homelessness in the amount of \$56,801 for a total amended contract amount of \$585,237

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Staff Memo, Proposed Amendment



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Opportunity Council – Housing Case Management Contract Amendment #4

DATE: April 13, 2022

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

▪ **Background and Purpose**

Housing Case Managers provide assistance to households to access housing, improve housing stability, and reduce homelessness through joint efforts between the Whatcom Homeless Service Center and the Community Services Division of the Opportunity Council. This contract provides funding for case management and supportive services to those individuals and households experiencing or at-risk of experiencing homelessness, or who are newly housed, in order to improve housing stability and reduce homelessness in Whatcom County. This amendment increases funding by \$56,801 to support the addition of 1 FTE Case Manager position and related costs to provide case management specifically to indigent Whatcom County Veterans.

▪ **Funding Amount and Source**

Funding for this contract period (01/01/2022 – 12/31/2022) is not to exceed \$585,237 and funding for the entire contract period (07/01/2021 – 12/31/2022) is not to exceed \$848,895. Funding is provided by local document recording fees, the Veterans Assistance Fund, and the Washington State Department of Commerce Consolidated Homeless and Emergency Solutions COVID-19 Grants (CFDA 14.231). These funds are included in the 2022 budget. Council approval is required as the funding provided by this amendment increases funding by more than 10% of the approved budget.

Please contact Ann Beck, Human Services Manager at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.

**WHATCOM COUNTY
CONTRACT INFORMATION SHEET**

Whatcom County Contract Number:
202106045 – 4

Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing	
Contract or Grant Administrator:		Barbara Johnson-Vinna	
Contractor's / Agency Name:		Opportunity Council	
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 #:		202106045
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#: 14.231
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		202008014 / 202107011
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
Is this contract the result of a RFP or Bid process?	Contract Cost		122200 / 122800 /
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	If yes, RFP and Bid number(s): 21-04	Center:	122300 / 114
Is this agreement excluded from E-Verify?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>		
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 exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 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. 	
\$ 792,094			
This Amendment Amount:			
\$ 56,801			
Total Amended Amount:			
\$ 848,895			
Summary of Scope: This contract provides funding for case management and supportive services in association with the Whatcom Homeless Service Center in an effort to improve housing stability and reduce homelessness in Whatcom County.			
Term of Contract:	1 Year	Expiration Date:	12/31/2022
Contract Routing:	1. Prepared by:	JT	Date: 03/21/2022
	2. Health Budget Approval	JG	Date: 04/13/2022
	3. Attorney signoff:	RB	Date: 04/08/2022
	4. AS Finance reviewed:	M Caldwell	Date: 4/13/22
	5. Council Approved (if necessary)	AB2022-234	Date:
	6. Contractor Program Manager:		Date:
	7. Executive Contract Review:		Date:
	8. Executive signed:		Date:
	9. Original to Council:		Date:

WHATCOM COUNTY CONTRACT AMENDMENT

PARTIES:

Whatcom County
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

AND CONTRACTOR:
Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225

CONTRACT PERIODS:

Original & Amendment #1: 07/01/2021 – 12/31/2021
Amendment #2 & #3: 01/01/2022 – 12/31/2022
Amendment #4: 05/01/2022 – 12/31/2022

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

DESCRIPTION OF AMENDMENT:

1. Amend Exhibit A – Scope of Work, to add program outcomes and reporting requirements for the addition of services to indigent Whatcom County Veterans.
2. Amend Exhibit B – Compensation, to increase funding by \$56,801 to support case management to indigent Whatcom County Veterans.
3. Funding for this contract period (01/01/2022 – 12/31/2022) is not to exceed \$585,237.
4. Funding for the total contract period (07/01/2021 – 12/31/2022) is not to exceed \$848,895.
5. All other terms and conditions remain unchanged.
6. The effective start date of the amendment is 05/01/2022.

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. 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 bind the party thereto.

APPROVAL AS TO PROGRAM: _____
Ann Beck, Human Services Manager Date

DEPARTMENT HEAD APPROVAL: _____
Erika Lautenbach, Health Department Director Date

APPROVAL AS TO FORM: _____
Royce Buckingham, Senior Civil Deputy Prosecutor Date

FOR THE CONTRACTOR:

_____	Greg Winter, Executive Director	_____
Contractor Signature	Print Name and Title	Date

FOR WHATCOM COUNTY:

_____	_____
Tyler Schroeder, Deputy Executive	Date

CONTRACTOR INFORMATION:

Opportunity Council
1111 Cornwall Avenue
Bellingham, WA 98225
Greg_winter@oppc.org

EXHIBIT "A" – Amendment #4
(SCOPE OF WORK)

I. Background

According to the annual Point In Time Count of homeless persons conducted in January 2021, at least 859 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 Whatcom Homeless Service Center (WHSC) partnership includes both rental subsidy and housing case management components. WHSC staff determine client eligibility for services and authorize and distribute rent subsidies to local landlords on behalf of participating clients, make referrals for case management to partner agencies, and coordinate required data collection efforts.

Through this contract, Opportunity Council will serve as one of the WHSC partner agencies providing Housing Pool case management and other housing case management services. The purpose of this contract is to provide case management for individuals and families experiencing homelessness or at risk of homelessness in order to improve housing stability and reduce homelessness in Whatcom County.

II. Definitions

HMIS	Washington's Homeless Management Information System Database
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 activities include 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:

1. Developing, securing, coordinating, and retaining services and suitable housing. Services include but are not limited to:
 - a. Tenant counseling;
 - b. Assisting individuals and households with understanding leases;
 - c. Securing utilities;
 - d. Making moving arrangements;
 - e. Representative payee services concerning rent and utilities;
 - f. Mediation and outreach to property owners related to locating or retaining housing;
 - g. Monitoring and evaluating household progress;
 - h. Assuring that household rights are protected;
 - i. Developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance.

2. Intake and Referral – People who present to Opportunity Council's Community Resource Center in a housing crisis will receive a low barrier, problem-solving conversation with an Intake and Referral Specialist. Those Housing intake services provided to collect client information and assess eligibility for housing programs. Services will be provided to low-income and/or homeless individuals and households residing in Whatcom County. Individuals and households served shall have incomes at or below 50% Area Median Income (AMI).
3. Housing Pool (HP) – HP case management services are designed to make persons who are homeless or at imminent risk of homelessness aware of available programs and provide them with a point of access to housing services. HP case management provides supportive services designed to assist people waiting for housing to be able to move rapidly into permanent housing by helping clients stabilize, identify barriers to housing, and engage in activities required to remove those barriers. HP case management diverts people from entering the homeless shelter system whenever possible.
4. Diversion – Diversion can be the first response to resolving an episode of homelessness by focusing on re-housing a family without their entering a longer-term housing program. Diversion starts with problem-solving conversations to identify a household's own strengths and resources. 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).
5. Deposit Assistance - Single adults experiencing homelessness will be assisted with deposit/move-in assistance when they have found housing on their own. This light touch case management will serve people awaiting assistance on the Housing Pool, attending Housing Lab, or applying for assistance through the Community Resource Center. Without the facilitated move-in assistance with case management, the result can be long term homelessness leading to deterioration of health and overall well-being of these individuals.
6. Interim Housing – Emergency shelter and supportive services to homeless families with minor children in their custody is prioritized for those in the most desperate situations. With the onset of the COVID pandemic there has been increasing demand for shelter services in motels stays and in short-term housing offered by Interfaith Coalition. Case management focuses on ensuring basic needs are met and development of a plan to obtain and maintain permanent housing.
7. Rapid Re-housing – These services focus on family homelessness and prioritize those living in shelters, motels, vehicles, or are unsheltered. Rapid Rehousing is an intervention proven to end family homelessness. Case management adhering to a progressive engagement approach and short to medium term rental subsidies for families experiencing homelessness are offered to meet the needs of families to enable them to achieve housing stability.
8. Permanent Supportive Housing – Households served with permanent supportive housing have a history of chronic homelessness or have a combination of high barriers often including mental health, active or history of addiction, and medical, developmental and physical disabilities. Long-term housing retention and personal wellness is supported through a Housing-First model, employing a harm reduction and person-centered approach.
9. Households living in units owned or master-leased by the Opportunity Council.

IV. Program Outcomes

The housing case management services provided by the Contractor will deliver the following outcomes:

1. At least 90 households will receive HP case management.
2. Total number of households in motels that received short-term housing case management (no specific target)
3. At least 40 families with children will receive diversion case management.
4. At least 14 households in PSH will receive case management.
5. At least 12 households receiving Skagit HOME TBRA rental assistance will receive case management.
6. At least 40 households will receive case management funded with Emergency Solutions COVID-19 Grant (ESG-CV) while in motels for emergency shelter; 20 of these households will transition from motel-based emergency shelter to permanent housing. Households must meet eligibility criteria of the ESG-CV.

7. Median number of days in case management prior to being housed will be 75.
8. Mean number of days in case management prior to being housed will be 90.
9. At least 85% of families that reached a 12-month period of time since exiting the Ending Family Homelessness Project or Rapid ReHousing case management will have retained stable housing.
10. Of the households in PSH, at least 90% will be stably housed (including exits from PSH to permanent housing).
11. At least 40 WCHD funded case management households (from ES, Diversion, EFH, Housing Pool, TBRA RRH or unstably housed, and EFH) will achieve housing stability.
12. At least 30 households will be housed from the Housing Pool with deposit/move-in assistance (this is contingent upon availability of rental assistance and referrals).
13. At least 20 unduplicated households will be stably housed with EFH RRH while receiving case management.
14. At least 45 unduplicated households will receive assistance funded through and eligible for the ESG-CV.
15. At least 40 Veterans will be served.
16. At least 15 Veterans will obtain housing.
17. At least 20 Veterans will maintain housing.
18. At least 20 Veterans will be linked to healthcare.
19. At least 35 Veterans will be linked to non-healthcare Veteran services (VA benefits, employment, education, transportation, etc.).

V. Additional Requirements

The Contractor will:

1. Comply with all State of Washington Department of Commerce Special Terms and Conditions of Commerce Grants, herein incorporated as Exhibit D.
2. Comply with all 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 the following link: <https://deptofcommerce.app.box.com/s/4d1ilui45uqljmhseufez4flxqv1q6b>
 - a. Commit to ending homelessness in Whatcom County, per the CHG Guidelines, by:
 1. Prioritizing unsheltered homeless households for services.
 2. Assessing each household's needs and facilitating housing stability with the goal of obtaining or maintaining permanent housing.
 3. Employing a progressive engagement service model.
 4. Prioritizing households likely to become homeless when using prevention rental assistance.
 - b. Ensure that all costs incurred comply with CHG Guidelines.
 - c. Commit to reporting complete quality data that is timely, truthful and accurate (per CHG Guidelines and HMIS User Agreement).
 - d. Consequences of non-compliance with CHG Guidelines, as per the Department of Commerce, include:
 1. 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.
 2. 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%.

3. 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.
3. 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 the following links:
<https://www.commerce.wa.gov/wp-content/uploads/2020/06/Commerce-ESG-CV-Overview-.pdf> and
<http://www.commerce.wa.gov/wp-content/uploads/2016/10/hau-esg-guidelines-2017-2019.pdf>
4. Comply with eligibility requirements for serving indigent 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 Witowski, Veterans Specialist
Whatcom County Health Department
360-778-6050
EWitowsk@co.whatcom.wa.us

The Case Manager hired and funded by this contract must sign a timesheet that includes the following statement:

I certify that my time charged to this contract is for working with indigent Veterans in accordance with Whatcom County Code 2.150 and 2.152 and RCW 73.08.005

5. 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.
6. 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.
 - 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 agree 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.
7. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
 - a. Informing 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. Informing clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons.
 - c. Informing 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. Informing prospective tenants that they need to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing.
 - e. In scattered sites, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address the issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide case managers with free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated, whenever requested.

- f. Documenting in each client file that these expectations were communicated to the client/tenant.
- 8. Require professional development training for direct service staff and supervisors.
- 9. Attend Whatcom County Coalition to End Homelessness meetings and sponsored activities.
- 10. Attend meetings and events coordinated by WHSC.

VI. Reporting Requirements

1. The Contractor shall submit quarterly reports* to the WCHD utilizing HMIS data by using the quarterly reporting template accessed on the County website, as noted below. Reports will demonstrate the Contractor's progress toward achieving the program outcomes identified above. Quarterly reports are due on April 15, July 15, October 15, and January 15.

*Contractors will be notified via email of updates to quarterly reporting templates. Current reporting templates will be posted on the Whatcom County Health Department Housing Program website which may be accessed at:

<https://www.whatcomcounty.us/DocumentCenter/View/36907/Case-Management-Report>

2. Reports will include data for only those clients served under this contract and include:
 - a. Number of households that received HP case management this quarter.
 - b. Number of households that received short-term housing (excluding motels and transitional housing) case management this quarter (carry-over in Q1, new thereafter).
 - c. Number of households that received short-term housing case management this quarter in motels (carry-over in Q1, new thereafter).
 - d. Number of FWC that received diversion case management this quarter (carry-over in Q1, new thereafter).
 - e. Total number of households in PSH that received case management during the quarter (carry-over in Q1, new thereafter).
 - f. Number of households that received Skagit HOME TBRA served with case management this quarter.
 - g. Median number of days in case management prior to being housed this quarter.
 - h. Mean number of days in case management prior to being housed.
 - i. For families that reached a 12-month period of time in the quarter since exiting the Ending Family Homelessness Project or RRH case management, the % that retained stable housing for those 12 months.
 - j. Of the households that were in PSH at the beginning of the quarter, the % that remained housed at the end of the quarter. Exists to stable housing are included in housing retention.
 - k. Number of WCHD funded case managed households (from ES, Diversion, EFH, HP, TBRA RRH or unstably housed) that achieved housing stability this quarter.
 - l. Number of households directly from the HP with deposit/move-in assistance (contingent upon rent assistance and referrals).
 - m. Unduplicated number of households that become stably housed with EFH RRH that received case management during this quarter.
 - n. Unduplicated number of households that received assistance funded thorough and eligible for, ESG-CV.
 - o. Number of Veterans served.
 - p. Number of Veterans who obtained housing.
 - q. Number of Veterans who maintained housing.
 - r. Number of people linked to healthcare.
 - s. Number of people linked to non-healthcare Veteran services (VA benefits, employment, education, transportation, etc.).

Additionally, projects falling under specific intervention types and funded by the CHG will be expected to meet or make progress toward the System-wide 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, located 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.(1)(d.) as per Commerce, wherein 'Grantee' refers to the County being the CHG recipient.

VII. Flex Funding

Flex funds must follow the Guidelines established by the County and be reported on the spreadsheet provided by the County (Exhibit D) and signed by an authorized agency signatory. In addition, all flex funds must be accompanied by receipts.

Exhibit B – Amendment #4
(COMPENSATION)

- I. **Source of Funding and Budget:** The source of funding for this contract, in an amount not to exceed \$585,237, is local document recording fees, the Veterans Assistance Fund, and the Washington State Department of Commerce Consolidated Homeless and Emergency Solutions COVID-19 Grants (CFDA 14.231). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

Cost Description*	Documents Required with Invoices	Budget
Document Recording Fee (DRF) Funding:		
Personnel – (salary, taxes, benefits): Housing Case Managers Case Management Coordinator Homeless Housing Programs Manager Information & Referral Specialist	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$372,009
Communications (does not include system upgrades or capital costs)	GL Detail	\$2,100
Printing & Duplicating		\$1,500
Office Equipment & Supplies		\$2,000
Postage		\$250
Mileage	Mileage log to include: name of staff member, date of travel, starting point and destination of travel, number of miles traveled, federal reimbursement rate (per www.gsa.gov) and a brief description of the purpose of travel	\$3,000
Travel/Training – Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location.	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, brief description of the purpose. Receipts for registration fees or other documentation of professional training expenses. Receipts for meals are not required.	\$2,500
Flex Funds	Flex Fund Spreadsheet and copies of receipts	\$1,000
DRF Direct Costs Subtotal		\$384,359
DRF Indirect** @ 12%		\$46,123
Consolidated Homeless Grant (CHG) Funding:		
Personnel – (salary, taxes, benefits): Case management and support staff	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$56,071
Personnel – (CHG PSH FWC) Case management services for families with children in permanent supportive housing		\$2,352
Language Interpretation & Translation Services	GL Detail	\$1,000
CHG Direct Costs Subtotal		\$59,423
CHG Indirect** @ 12%		\$7,131
Emergency Solutions – CV (ESG-CV) Grant Funding		
Personnel – (salary, taxes, benefits): Case Managers (.3 FTE – services delivered to ESG-CV eligible clients only)	Approved Composite Billing Rate Worksheet for each staff member and timesheets for the period.	\$28,037
ESG-CV Indirect** @ 7%		\$1,962
DRF Indirect** (in excess of 7% for ESG-CV costs) @ 5%		\$1,401

Veterans Assistance Funds (VAF):		
Personnel – (salary, taxes, benefits): <ul style="list-style-type: none"> 1 FTE – services delivered to eligible Veteran clients only .15 FTE Supervision 	Approved Composite Billing Rate Worksheet for the employee hired for this position, timesheets and signed certification statements, as specified in Exhibit A for the period	\$48,655
Communications (does not include system upgrades or capital costs)	GL Detail	\$460
Office Equipment & Supplies		\$1,067
Mileage	Mileage log to include: name of staff member, date of travel, starting point and destination of travel, number of miles traveled, federal reimbursement rate (per www.gsa.gov) and a brief description of the purpose of travel	\$333
Travel/Training – Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location.	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, brief description of the purpose. Receipts for registration fees or other documentation of professional training expenses. Receipts for meals are not required.	\$200
VAF Direct Costs Subtotal		\$50,715
VAF Indirect** @ 12%		\$6,086
TOTAL BUDGET		\$585,237

*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 the current federally approved rate.

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



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-242

File ID:	AB2022-242	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: CHollins@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Bird's Eye Medical to provide COVID-19 vaccine administration services at community vaccine clinics, in an estimated amount not to exceed \$140,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Contract



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Bird's Eye Medical – COVID Vaccine Clinic Operations Contract

DATE: April 18, 2022

Attached is a contract between Whatcom County and Bird's Eye Medical for your review and signature.

- **Background and Purpose**

This contract is a result of Whatcom County RFQ #22-11 and provides reimbursement for services provided by Bird's Eye Medical personnel operating COVID-19 vaccine clinics and administering vaccines at community vaccination clinics (CVC) throughout Whatcom County.

- **Funding Amount and Source**

Funding for this contract varies depending on the wages of the personnel working at the CVCs and number of vaccines administered, however, total funding is estimated not to exceed \$140,000. Funds under the contract are made available by a grant awarded by FEMA, passed through the Washington State Department of Health Mass Vaccination FEMA Grant (CFDA 97.036). These funds are included in the 2022 budget. Council approval is required as funding exceeds \$40,000.

- **Differences Between Previous Contracts**

This is a new contract, however, funding for these services was provided through a previous contract (WCC #202111030) with Bird's Eye Medical from 11/01/2021 through 03/31/2022. This contract includes no significant changes from the previous contract.

Please contact Cindy Hollinsworth, Communicable Disease & Epidemiology Manager at 360-778-6160 (CHollins@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us) if you have any questions or concerns regarding this request.



WHATCOM COUNTY CONTRACT INFORMATION SHEET				Whatcom County Contract No. _____	
Originating Department:			85 Health		
Division/Program: (i.e. Dept. Division and Program)			8560 Communicable Disease / 856010 Communicable Disease Admin		
Contract or Grant Administrator:			Cindy Hollinsworth		
Contractor's / Agency Name:			Bird's Eye Medical		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:			
Does contract require Council Approval?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)			
Is this a grant agreement?		If yes, grantor agency contract number(s):		CFDA#:	97.036
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):		202201016	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		If yes, RFP and Bid number(s):		Contract Cost Center:	660470
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	22-11			
Is this agreement excluded from E-Verify?		No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>		
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 exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:			
Varies depending on wages of personnel and number of vaccines administered Not to exceed \$140,000		1. Exercising an option contained in a contract previously approved by the council.			
		2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.			
		3. Bid or award is for supplies.			
		4. Equipment is included in Exhibit "B" of the Budget Ordinance			
		5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.			
Summary of Scope: This contract provides funding for COVID-19 vaccine administration services throughout Whatcom County.					
Term of Contract:		2 Months		Expiration Date: 07/01/2022	
Contract Routing:		1. Prepared by: JT		Date:	04/14/2022
		2. Health Budget Approval: KR		Date:	04/15/2022
		3. Attorney signoff: RB		Date:	04/15/2022
		4. AS Finance reviewed: M Caldwell		Date:	4/18/22
		5. IT reviewed (if IT related):		Date:	
		6. Contractor approved:		Date:	
		7. Executive Contract Review:		Date:	
		8. Council approved (if necessary): AB2022-242		Date:	
		9. Executive signed:		Date:	
		10. Original to Council:		Date:	

CONTRACT FOR SERVICES
Between Whatcom County and Bird's Eye Medical

Bird's Eye Medical, 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), p. 14,
 Exhibit B (Compensation), pp. 15 to 16,
 Exhibit C (Insurance), p. 17,
 Exhibit D (FEMA Medical CARE Policy), pp. 18 to 32,
 Exhibit E (Special Terms and Conditions for Mass Vaccination FEMA Grant).

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 1st day of May, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 1st day of July, 2022.

The general purpose or objective of this Agreement is to **provide reimbursement of costs related to vaccine administration throughout Whatcom County**, 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 contract is estimated at \$140,000. 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 on:

CONTRACTOR:

Bird's Eye Medical
 2915 29th Avenue SW, Unit A
 Tumwater, WA 98512

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.

 Patrick Hastings, COO

 Date

WHATCOM COUNTY:
Recommended for Approval:

Cindy Hollinsworth, Communicable Disease & Epidemiology Manager Date

Erika Lautenbach, Director Date

Approved as to form:

Royce Buckingham, Senior Civil Deputy Prosecutor Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive Date

CONTRACTOR INFORMATION:

Bird's Eye Medical
2915 29th Ave SW, Unit A
Tumwater, WA 98512
360-688-7044
patrick@birdseyemedical.com

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. Professional Liability

Professional Liability - \$1,000,000 per occurrence

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

3. 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.

4. 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 (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Cindy Hollinsworth, Communicable Disease & Epidemiology Manager
Whatcom County Health Department

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 [Party 1]: Whatcom County Health Department
1500 N State Street
Bellingham, WA 98225
Attn: Cindy Hollinsworth, Communicable Disease & Epidemiology Manager
(360) 778-6160
CHollins@co.whatcom.wa.us

To [Party 2]: Bird's Eye Medical
Marshall Bishop, Director of Mobile Teams
2915 29th Ave SW, Unit A
Tumwater, WA 98512
(305) 924-4577
Marshall@birdseyemedical.com

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

- 37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

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

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of

1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

40.1 Modifications:

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

40.2 Contractor Commitments, Warranties and Representations:

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

41.1 Severability:

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

41.2 Waiver:

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

42.1 Disputes:

a. General:

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

b. Notice of Potential Claims:

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

c. Detailed Claim:

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

d. Arbitration:

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

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

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

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

Bird's Eye Medical supports COVID-19 vaccine administration throughout Whatcom County in the following ways:

Personnel	Support Provided
Administration including: COO, Director of Mobile Teams, Clinical/Site Leads, Project/Logistics Coordinator	Vaccine clinic planning, management, and operations.
RN/LPN/NP/Pharmacist	Vaccine management, administration of vaccines, observation of vaccinated individuals for adverse reactions; emergency response.
Medical Assistant (CMA, MA-R)	Vaccine management, administration of vaccine, completion of CDC vaccination record cards.
Scribe	Greeting patients, registration including verbal instructions and review of forms, scheduling/confirming 2 nd vaccine appointments, monitoring patient flow, moving individuals to observation, re-checking all documentation, answering questions.

I. Statement of Work

The Contractor will be reimbursed for personnel and other eligible expenses related to the operation of vaccine administration clinics as part of Whatcom County's public health emergency response to the ongoing COVID-19 pandemic.

Personnel are paid a minimum of six (6) hours for each clinic day, including travel time. In good faith, the Contractor will prioritize sending staff who live as close as possible to Whatcom County clinics. If clinics are cancelled for any reason outside of the Contractor's control and within 24 hours of the clinic start time, or after they have mobilized to Whatcom County for a multiple day deployment, the Contractor will be reimbursed for a minimum of six (6) hours for the cancelled clinic.

The Contractor may invoice for non-local staff hours when staff need to remain in Whatcom County without a clinic, for a clinic the following day. In good faith, both the Contractor and County will do their best to avoid this by scheduling consecutive clinic days.

Planned community vaccine clinics are scheduled on the following dates:

MAY	JUNE – JULY 1
May 1	TBD
May 5	
May 10	
May 13	
May 14	
May 21	
May 27	

EXHIBIT "B"
(COMPENSATION)

I. Budget and Source of Funding: Total funding for this contract is estimated at \$140,000. Funding is made available by a grant awarded by FEMA, passed through the Washington State Department of Health Mass Vaccination FEMA Grant (CFDA 97.036). The budget for this contract is as follows:

Cost Description	Documents Required Each Invoice	Estimated Total
Vaccine Administration Fee - \$18/vaccine which includes off-site vaccine management, equipment, PPE, sharps, medical supplies, other equipment (excluding large equipment requiring cargo van transport – e.g., chairs, tables, tents, etc.)	1. Timesheets for the period. 2. Completion of the Cost Summary Workbook provided by the County. 3. Log of vaccines administered including quantity, date, and clinic location. 4. Reimbursement requests for allowable travel (including mileage) must include the name of staff member, dates of travel, starting point and destination, brief description of purpose. a. Ground transportation, coach airfare and ferries will be reimbursed at cost when accompanied by receipts. b. Receipts for meals are not required. c. Meal and mileage rates may not exceed the U.S. GSA Domestic Per Diem Rates (www.gsa.gov), specific to location and must follow federal guidelines. d. Lodging at rates exceeding federal GSA may be procured after confirming through www.fedrooms.com and keeping documentary evidence (e.g., screenshot including date/time), that there are no rooms available at per diem in Whatcom County.	\$140,000
Vaccine administration related expenses including personnel, mileage, and supplies/equipment (excluding those included in the above vaccine administration fee)	5. Receipts or paid invoices.	

Staff	Rates/Hour
Clinical/Site Lead	\$110
NP/PharmD/RN	\$100
LPN	\$80
Project/Logistics Coordinator	\$80
Medical Assistant	\$65
Scribe	\$50

II. Attestation

Upon full execution of this contract, the Contractor attests that Medicare, Medicaid, HRSA, or any other third-party payor shall not be billed for vaccine administration services provided at the same time as those provided to homebound persons in Whatcom County through this contract. The Contractor attests that if these costs are submitted to any third-party payor for reimbursement, the Contractor will be responsible for repaying the full amount that FEMA has reimbursed. This also includes any Cost Report Reimbursement from Medicare or Medicaid at the end of the fiscal year reporting cycle.

The Contractor may only be reimbursed for FEMA eligible costs, as outlined in the Cost Summary Workbook (to be provided by the County). The Contractor attests that reimbursement of costs for personnel who provided services at vaccine clinics in Whatcom County may occur by following the guidance given in the FEMA Medical Care Policy (incorporated herein as Exhibit C), completing an LHJ Summary Spreadsheet, retaining supporting documentation,

and agreeing to fully reimburse costs to Whatcom County if they are reimbursed by any other payor or funding source for the provision of services at Whatcom County vaccine clinics.

III. **Invoicing**

1. The Contractor shall submit invoices in a format approved by the County. **Final invoices for services performed must be received by July 15, 2022.** Invoices submitted for payment must include the items identified in the table above.
2. The Contractor shall submit invoices to *(include contract/PO #)* HL-BusinessOffice@co.whatcom.wa.us.
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 C
(Insurance)**



Coronavirus (COVID-19) Pandemic: Medical Care Eligible for Public Assistance (Interim) (Version 2)

FEMA Policy #104-21-0004

BACKGROUND

Under the President's March 13, 2020 COVID-19 nationwide emergency declaration¹ and subsequent major disaster declarations for COVID-19, state, local, tribal, and territorial (SLTT) government entities and certain private non-profit (PNP) organizations are eligible to apply for assistance under the FEMA Public Assistance (PA) Program. This interim policy is applicable to eligible PA Applicants only and is exclusive to emergency and major disaster declarations for COVID-19. This revision supersedes the version of this policy issued on May 9, 2020.

PURPOSE

This interim policy defines the framework, policy details, and requirements for determining the eligibility of medical care work and costs under the PA Program to ensure consistent and appropriate implementation across all COVID-19 emergency and major disaster declarations. Except where specifically stated otherwise in this policy, assistance is subject to PA Program requirements as defined in Version 3.1 of the Public Assistance Program and Policy Guide (PAPPG) published on April 1, 2018.²

PRINCIPLES

- A. FEMA will provide assistance for medical care provided under COVID-19 declarations to improve the abilities of communities to effectively respond to the COVID-19 Public Health Emergency.
- B. FEMA will implement this policy and any assistance provided in a consistent manner through informed decision making and review of an Applicant's supporting documentation.

¹ www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration.

² Version 3.1 of the PAPPG is applicable to all COVID-19 declarations and is available on the FEMA website at www.fema.gov/sites/default/files/2020-03/public-assistance-program-and-policy-guide_v3.1_4-26-2018.pdf.
FEMA Policy #104-21-0004



- C. FEMA will engage with interagency partners, including the U.S. Department of Health and Human Services' (HHS) Office of the Assistant Secretary for Preparedness and Response (ASPR), the Administration for Children and Families (ACF), the Centers for Disease Control and Prevention (CDC), the Health Resources and Services Administration (HRSA), the Centers for Medicare and Medicaid Services (CMS), and the U.S. Department of Treasury to ensure this assistance is provided in a coordinated manner without duplicating assistance.

REQUIREMENTS

A. APPLICABILITY

Outcome: To establish the parameters of this policy and ensure it is implemented in a manner consistent with program authorities and appropriate to the needs of the COVID-19 Public Health Emergency.

1. This policy applies to:
 - a. All Presidential emergency and major disaster declarations under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, issued for the COVID-19 Public Health Emergency and is applicable to work performed on or after January 20, 2020.
 - b. Eligible PA Applicants under the COVID-19 emergency declaration or any subsequent COVID-19 major disaster declaration, including:
 - i. SLTT government entities; and
 - ii. PNP organizations that own or operate medical facilities, as defined in Title 44 of the Code of Federal Regulations (44 C.F.R.) § 206.221(e)(5).
 - c. This policy does not apply to any other emergency or major disaster declaration.

B. GENERAL ELIGIBILITY CONSIDERATIONS FOR COVID-19 MEDICAL CARE

Outcome: To define the overarching framework for all eligible medical care work related to COVID-19 declarations.

1. All work must be required as a direct result of the COVID-19 pandemic incident in accordance with 44 C.F.R. § 206.223(a)(1).
2. Medical care and associated costs refer to assistance to support the provision of medical care, including eligible facility, equipment, supplies, staffing, and wraparound services (as defined in the **Definitions** section at the end of this document), as well as assistance for clinical care of patients not covered by another funding source as described throughout this policy.



FEMA

3. Equitable Pandemic Response and Recovery

- a. As stated in [“Executive Order on Ensuring an Equitable Pandemic Response and Recovery,”](#) dated January 21, 2021, COVID-19 has a disproportionate impact on communities of color and other underserved populations, including members of the LGBTQI+ community, persons with disabilities, those with limited English proficiency, and those living at the margins of our economy.
- b. Through September 30, 2021, FEMA is funding the entire cost of the emergency protective measures made eligible by this policy.
- c. As a condition of receiving this financial assistance, Recipients and Subrecipients must focus the use of FEMA funding on the highest-risk communities and underserved populations as determined by established measures of social and economic disadvantage (e.g., the CDC Social Vulnerability Index). Recipients and Subrecipients must prioritize limited resources to ensure an equitable pandemic response. Failure to adhere to this policy could result in funding reductions and/or delays.
- d. FEMA will monitor compliance with this grant condition in concert with the obligations set forth in 44 C.F.R. part 7 and Title VI of the Civil Rights Act of 1964 that no person on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from FEMA; and the requirement of Stafford Act Section 308 (42 U.S.C. 5151) that distribution of disaster relief be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.

C. ELIGIBLE MEDICAL CARE WORK AND COSTS

Outcome: To establish parameters for eligible medical care work and costs for COVID-19 declarations.

1. Primary Medical Care Facility.

For medical care provided in a primary medical care facility (as defined in the **Definitions** section at the end of this document), work must be directly related to the treatment of COVID-19 patients. Work may include both emergency and inpatient treatment of COVID-19 patients; this includes both confirmed and suspected cases of COVID-19. Medical care related to treatment of a non-COVID-19 illness or injury in a primary medical care facility is not eligible. The following medical care activities and associated costs are eligible in primary medical care facilities.

FEMA Policy #104-21-0004

3



FEMA

- a. Emergency and inpatient clinical care for COVID-19 patients, including, but not limited to:
 - i. Emergency medical transport related to COVID-19;
 - ii. Triage and medically necessary tests and diagnosis related to COVID-19;
 - iii. Necessary medical treatment of COVID-19 patients; and
 - iv. Prescription costs related to COVID-19 treatment.
- b. Purchase, lease, and delivery of specialized medical equipment necessary to respond to COVID-19 (equipment purchases are subject to disposition requirements³);
- c. Purchase and delivery of Personal Protective Equipment (PPE),⁴ durable medical equipment, and consumable medical supplies necessary to respond to COVID-19 (supply purchases are subject to disposition requirements⁵);
 - i. This includes the costs of eligible SLTT government Applicants providing PPE to any public or private medical care facility that treats COVID-19 patients.
- d. Medical waste disposal related to COVID-19; and
- e. Certain labor costs associated with medical staff providing treatment to COVID-19 patients may be eligible as outlined below. Any labor costs for medical staff that are included in patient billing and/or otherwise covered by another funding source (as described in **Section D.4 Duplication of Benefits** of this policy) are not eligible for PA. Otherwise, the following labor costs may be eligible:
 - i. Overtime for budgeted medical staff providing treatment to COVID-19 patients;
 - ii. Straight time and overtime for temporary medical staff providing treatment to COVID-19 patients; and
 - iii. Straight time, overtime, and other necessary costs for contract medical staff providing treatment to COVID-19 patients. Work and associated costs must be consistent with the scope of the contract and may include costs for travel, lodging, and per diem for contract medical staff from outside the local commuting area.
- f. For primary medical care facilities, increased operating costs for administrative activities (such as medical billing) are not eligible.⁶

³ As described in Chapter 2:V.E. Disposition of Purchased Equipment and Supplies of the PAPPG (V3.1).

⁴ PPE includes items such as N95 and other filtering respirators, surgical masks, gloves, protective eyewear, face shields, and protective clothing (e.g., gowns).

⁵ As described in Chapter 2:V.E. Disposition of Purchased Equipment and Supplies of the PAPPG (V3.1).

⁶ See Chapter 2:VI.B.2. Expenses Related to Operating a Facility or Providing a Service of the PAPPG (V3.1).

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2. Temporary and Expanded Medical Facilities.⁷

FEMA may approve work and costs associated with temporary medical facilities or expanded medical facilities when necessary in response to the COVID-19 Public Health Emergency. These facilities may be used to treat COVID-19 patients, non-COVID-19 patients, or both, as necessary. Medical care activities and associated costs related to treating both COVID-19 and non-COVID-19 patients in a temporary or expanded medical facility may be eligible.

- a. Costs must be reasonable and necessary based on the actual or projected need.
- b. Eligible costs for temporary and expanded medical facilities include:
 - i. All eligible items and stipulations included in **Section C.1 Primary Medical Care Facility**, but applicable to both COVID-19 and non-COVID-19 patients;
 - ii. Lease, purchase, or construction costs, as reasonable and necessary, of a temporary facility as well as reasonable alterations to a facility necessary to provide medical care services;⁸
 - iii. Mobilization and demobilization costs associated with setting up and closing the temporary or expanded medical facility;
 - iv. Operating costs including equipment, supplies, staffing, wraparound services (as defined in the **Definitions** section at the end of this document), and clinical care not covered by another funding source; ; and
 - v. Maintenance of a temporary or expanded medical facility in an operationally ready but unused status available for surge capacity for COVID-19 readiness and response when necessary to eliminate or lessen an immediate threat to public health and safety, based on public health guidance, location of areas expected to be impacted, and local/state hospital bed/ICU capacity.
- c. For contract costs related to establishing and/or operating a temporary or expanded medical facility, contracts must include a termination for convenience clause that will be implemented if the site is ultimately not needed, or the needs are less than projected, as determined by the legally responsible entity.
 - i. Ongoing and projected needs regarding continuing operations at a temporary or expanded medical facility should be based on regular assessments and the Applicant must document the review process to support its decision making.
 - ii. The assessments should include adjustments to projected needs based on guidance from public health officials, caseload trends, and/or other predictive modeling or methodologies; lead times and associated costs for

⁷ Temporary medical facilities may include Alternate Care Sites or Community Based Testing Sites if eligible work and costs related to these facilities are incurred by eligible PA Applicants.

⁸ As described in Chapter 2:VI.B.17(e) and (g) of the PAPP (V3.1).



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scaling up or down based on projected needs; and any other supporting information.

- iii. The assessments and supporting information are necessary to determine eligibility of claimed costs and should align with PA reasonable cost guidance provided in the PAPPG⁹ and the *Public Assistance Reasonable Cost Evaluation Job Aid*.¹⁰
- d. Costs related to expanding a primary medical care facility to effectively respond to COVID-19 must be feasible and cost effective. In most cases, permanent renovations are not eligible unless the Applicant can demonstrate that the work can be completed in time to address COVID-19 capacity needs and is the most cost-effective option. Permanent renovations and other improvements to real property with PA funds are subject to real property disposition requirements.¹¹
- e. For temporary and expanded medical facilities, and the specific type of temporary medical facilities known as Alternate Care Sites, administrative activities and associated costs necessary for the provision of essential medical services are eligible.

3. Vaccinations

Work and associated costs to support the distribution and administration of COVID-19 vaccines may be eligible for PA. The federal government will provide the vaccine itself at no cost. There may be additional costs incurred to support the distribution and administration of the vaccine. Such costs may be eligible for PA funding when they are necessary to effectively distribute and administer COVID-19 vaccines consistent with established vaccine protocols, CDC and/or other applicable public health guidance, and PA program requirements. Eligible work and costs under PA include:

- a. Community vaccination centers.¹²
- b. PPE, other equipment, and supplies required for storing, handling, distributing/transporting, and administering COVID-19 vaccinations.
 - i. PPE includes items necessary for proper handling and administration of vaccinations as well as handling dry ice for storage and transportation needs;
 - ii. Equipment includes coolers, freezers, temperature monitoring devices, and portable vaccine storage units for transportation;
 - iii. Supplies include emergency medical supplies (for emergency medical care needs that may arise in the administration of the vaccine), sharps

⁹ As described in Chapter 2:V. Cost Eligibility of the PAPPG (V3.1).

¹⁰ The Public Assistance Reasonable Cost Evaluation Job Aid is available on the FEMA website at www.fema.gov/media-library/assets/documents/90743.

¹¹ As described in Chapter 2:V.F. Disposition of Real Property of the PAPPG (V3.1).

¹² For PA eligibility, community vaccination sites are considered temporary medical facilities consistent with Section C.2. Temporary and Expanded Medical Facilities of this policy.

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- containers (for medical waste), and supplies necessary for proper storage like dry ice; and,
- iv. Transportation support such as refrigerated trucks and transport security when reasonable and necessary.
- c. Facility support costs, including leasing space for storage and/or administration of vaccines, utilities, maintenance, and security.
- d. Additional staff, if necessary, including medical and support staff not paid for by another funding source and consistent with FEMA PA labor policies.¹³
- e. Onsite infection control measures and emergency medical care for COVID-19 vaccination administration sites.
- i. Masks/cloth facial coverings for patients;¹⁴
 - ii. Disinfection of facility and equipment in accordance with CDC guidance;¹⁵
 - iii. Temperature scanning, including purchase and distribution of handheld temperature measuring devices and associated supplies;
 - iv. Acquisition and installation of portable temporary physical barriers, such as plexiglass barriers and medical screens/dividers;
 - v. Medical waste disposal related to vaccinations; and
 - vi. Onsite emergency medical care to address adverse reactions to vaccinations or other emergency medical care needs that may arise while administering COVID-19 vaccinations.
- f. Resources to support mobile COVID-19 vaccination in remote areas and/or transportation support for individuals with limited mobility or lack of access to transportation, when reasonable and necessary.
- i. Equipment and supplies necessary for proper storage, handling, and transport in accordance with CDC guidance to support mobile vaccination units;
 - ii. Medical and support staff for mobile vaccination units in accordance with PA labor policies and this policy; and
 - iii. Transportation to and from vaccination sites for individuals with limited mobility. "Limited mobility" includes individuals with disabilities that require transportation assistance and individuals that are otherwise unable to get to and from vaccination sites without transportation assistance.

¹³ See Chapter 2:A. Applicant (Force Account) Labor of the PAPPG (V3.1).

¹⁴ For this policy, face masks, such as cloth face coverings, are not considered PPE. See <https://www.fda.gov/food/food-safety-during-emergencies/use-respirators-facemasks-and-cloth-face-coverings-food-and-agriculture-sector-during-coronavirus>. Note that FDA has issued an emergency use authorization (EUA) for face masks/cloth face coverings for use by members of the general public and for healthcare personnel in healthcare settings. See www.fda.gov/media/137121/download.

¹⁵ www.cdc.gov/coronavirus/2019-ncov/community/cleandisinfect/index.html.

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- g. Federally Qualified Health Centers– Vaccine-related costs incurred by a Federally Qualified Health Center (FQHC),¹⁶ Rural Health Clinics and Critical Access Hospitals that are not covered by HHS or another funding source. FQHCs fall under the authority of HHS. PA funding can be provided for eligible costs that are not covered under this authority or another source of funding.
- h. Communications to disseminate public information regarding vaccinations including translation and interpretation services as necessary.¹⁷ This may also include work and costs associated with setting up and operating a call center or website, when reasonable and necessary, for the purpose of sharing vaccination information with the public and/or to support the implementation and management of COVID-19 vaccination plans.
- i. Information Technology (IT) equipment and systems, when reasonable and necessary, for patient registration and tracking, vaccine-related inventory management, and/or analytics and reporting needs.
 - i. To the extent possible, vaccination providers should utilize existing IT systems and processes for managing the distribution and administration of COVID-19 vaccines.
 - ii. The CDC also developed the Vaccine Administration Management System (VAMS)¹⁸ for jurisdictions and healthcare providers that do not have existing IT systems for vaccination management. VAMS is an optional, web-based application that supports planning and execution for temporary, mobile, or satellite COVID-19 vaccination clinics.
 - iii. In the event existing IT systems and VAMS are both inadequate to meet the needs of vaccination providers, IT equipment and systems necessary for the distribution and administration of COVID-19 vaccines are eligible for PA.
 - iv. The systems should collect demographic data required under the Stafford Act and consistent with guidance from FEMA, and the system must be able to report data to FEMA when requested.
- j. Training and technical assistance specific to the proper storage, handling, distribution,¹⁹ and administration of COVID-19 vaccinations in accordance with CDC guidance.
- k. Vaccination administration consistent with equitable pandemic response and recovery.

¹⁶ For more information on FQHCs, visit www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/FQHC-Text-Only-Factsheet.pdf.

¹⁷ Stafford Act, Section 403(a)(3)(F) and (G); and as described at Chapter 2:VI.B. Emergency Protective Measures (Category B) at page 58 of the PAPPG (V3.1).

¹⁸ See www.cdc.gov/vaccines/covid-19/reporting/vams/index.html for more information on VAMS.

¹⁹ CDC Vaccine Storage and Handling Toolkit

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- i. Recipients and Subrecipients of FEMA assistance shall collect data on race, ethnicity and disability status.²⁰ Recipients must also make best efforts to collect additional anonymized equity-focused person-level data, including information on primary language, and sexual orientation or gender identity (SO/GI). Recipients and Subrecipients must incorporate these data in their development of short-term targets for the equitable deployment of FEMA financial assistance and identify data sources, proxies, or indices, including demographic data disaggregated to reveal socioeconomic, racial, linguistic, age, gender, disability, and other indices that will enable recipients to develop short-term targets for equitable delivery of FEMA-funded assistance and to reach communities of color and other underserved populations.
- ii. Recipients and Subrecipients must submit to FEMA information documenting the following for sites selected for vaccination administration every 30 days:
 - a) For each site, provide a score on the CDC's Social Vulnerability Index or a similar social deprivation, disadvantage, or vulnerability composite index.
 - b) A description of how the location of the site(s)—relative to other candidate locations—best advances FEMA's focus on supporting the highest-risk communities. This justification may also include a comparison of vaccination rates for demographic groups by geographic area.
 - c) A site strategy to operationalize equitable access including, but not limited to:
 - 1) A plan for community outreach and engagement, both before and during implementation;
 - 2) A registration process that advances equity with a focus on prioritizing minoritized, marginalized, and otherwise disadvantaged groups;
 - 3) Equitable physical design of the site, including transportation and accessibility considerations; and
 - 4) A plan for ongoing evaluation and continuous improvement to ensure equitable access.

D. GENERAL ELIGIBILITY CONSIDERATIONS FOR COVID-19 COSTS

Outcome: To provide additional information about eligible costs and cost-related considerations.

1. **Allowability of Costs.** To be eligible, claimed costs must be allowable under 2 C.F.R.

²⁰ Consistent with the Office of Management and Budget (OMB) minimum standard collection categories as per OMB Statistical Policy Directive No. 15.
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part 200.²¹ In considering allowability, FEMA will evaluate, among other factors:

- a. Whether the cost was necessary and reasonable in order to respond to the COVID-19 pandemic. A cost is considered reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.²² For COVID-19 declarations, FEMA will use Medicare rates²³ as the basis to determine reasonable costs for eligible clinical care not covered by another funding source. Both patient payments and insurance payments are considered another funding source; clinical care for which providers have received or will receive payments from patients or insurance is not eligible.
- b. Whether the cost conforms to standard PA program eligibility and other federal requirements.²⁴
- c. Whether the applicant followed its established practices and policies and procedures that apply when federal funding is not available, including standard billing and fee collection.²⁵
 - i. FEMA will not require Applicants to create a new billing process at temporary medical facilities described in C.2 and C.3.
 - ii. All work conducted and costs incurred in Primary Medical Care Facilities described in C.1 should follow the facility's standard billing practice.
 - iii. If the Primary Medical Care Facility described in C.1 did not follow its standard billing practice, the Applicant must demonstrate why following such practices would have increased an immediate threat to life and demonstrate that all costs not reimbursed by FEMA followed the same procedures.
- d. Whether the cost is documented with sufficient detail for FEMA to evaluate its compliance with federal laws, rules and other PA program requirements.²⁶

2. Cost Share for COVID-19 Declarations. PA funding authorized under COVID-19 declarations is subject to the following cost share provisions:

- a. In accordance with the February 17, 2021 memorandum from the FEMA Recovery Assistant Administrator titled "100% Federal Cost Share for COVID-19 Public Assistance Funding," FEMA will increase the federal cost share for all

²¹ 2 CFR 200.403.

²² 2 CFR 200.403(a) and 404.

²³ FEMA will use standard Medicare rates that do not include the 20 percent increase in COVID-19 Medicare DRG rates implemented by the CARES Act.

²⁴ See 2 CFR 200.403(b),(d),(e),(f) and (h) and PAPPG V3.1 (2018), and www.fema.gov/grants/procurement for additional guidance.

²⁵ 2 CFR 200.403(c).

²⁶ 2 CFR 200.302(a).

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COVID-19 declarations from 75 percent to 100 percent for eligible work performed or to be performed from January 20, 2020 through September 30, 2021.

- b. For previously awarded projects, FEMA will obligate additional funding to increase the federal funding from 75 percent to 100 percent. To minimize the administrative burden and expedite assistance, FEMA will obligate the additional 25 percent on each project via automatic amendments. Subsequently, any previously awarded donated resource project must be de-obligated. Donated resources are only eligible to offset the non-federal cost share which is no longer applicable to COVID-19 declarations.

3. Procurement Requirements for COVID-19 Declarations.²⁷

- a. States and territorial governments are required to follow their own procurement procedures as well as the federal requirements for procurement of recovered materials and inclusion of required contract provisions per 2 C.F.R. §§ 200.317, 200.322, and 200.326.²⁸
- b. Tribal governments, local governments, and PNPs must comply with the requirements of 2 C.F.R. §§ 200.318-200.326.
- c. In accordance with the March 17, 2020 memorandum from the FEMA Acting Associate Administrator for the Office of Response and Recovery, and the FEMA Assistant Administrator for the Grant Programs Directorate, for the duration of the Public Health Emergency, as determined by HHS, local governments, tribal governments, nonprofits, and other non-state entities may proceed with new and existing non-competitively procured contracts using the exigent/emergency circumstances exception in 2 C.F.R. § 200.320(c)(3). Additional resources on COVID-19 specific to grants are also available at www.fema.gov/grants under “News and Announcements” and www.fema.gov/coronavirus.
- d. SLTT governments may contract with medical providers, including private entities, to carry out any eligible activity described in **Section C. Eligible Medical Care by Facility** of this policy.
- e. Contracts must include an actionable termination for convenience clause that will be implemented if any part of the contract scope of work is ultimately not needed, or the needs are less than projected, as determined by the legally responsible entity. Ongoing and projected needs should be based on regular reviews and the

²⁷ Additional guidance regarding procurement standards is available at www.fema.gov/grants/procurement.

²⁸ For additional guidance regarding required contract clauses, see the Procurement Disaster Assistance Team’s “FEMA Contract Provisions Template” (2019 ed.) available online at www.fema.gov/media-library-data/1569959119092-92358d63e00d17639d5db4de015184c9/PDAT_ContractProvisionsTemplate_9-30-19.pdf.

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Applicant must document the review process to support its decision making. All claimed contract costs must be necessary and reasonable pursuant to applicable federal regulations and federal cost principles.

4. Duplication of Benefits.

Pursuant to Section 312 of the Stafford Act, FEMA is prohibited from providing financial assistance where such assistance would duplicate funding available from another program, insurance, or any other source for the same purpose.

- a. FEMA cannot duplicate assistance provided by HHS or other federal departments and agencies. This includes, but is not limited to, funding provided by the programs listed below. FEMA is providing this list as a helpful reference, but SLTT government entities and PNPs should consult with the appropriate federal agency and the terms and conditions of each program or source of funding to determine what funding may be considered duplicative.
 - i. The Public Health Emergency Preparedness Cooperative Agreement Program;
 - ii. The Public Health Crisis Response Cooperative Agreement;
 - iii. The Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases;
 - iv. The Hospital Preparedness Program Cooperative Agreement;
 - v. The Regional Ebola and Other Special Pathogen Treatment Centers Cooperative Agreement;
 - vi. The National Emerging Special Pathogens Training and Education Center Cooperative Agreement;
 - vii. The Hospital Association COVID-19 Preparedness and Response Activities Cooperative Agreement;
 - viii. The Partnership for Disaster Health Response Cooperative Agreement;
 - ix. The Coronavirus Relief Fund and the Provider Relief Fund;
 - x. The COVID-19 Uninsured Program
 - xi. The Paycheck Protection Program; and
 - xii. The Immunizations and Vaccines for Children Cooperative Agreement.
- b. FEMA cannot provide PA funding for clinical care and other costs funded by another source, including private insurance, Medicare, Medicaid/CHIP, other public insurance, a pre-existing private payment agreement, or the COVID-19 Uninsured Program for uninsured patients.²⁹ The Applicant must certify that it has not received and does not anticipate receiving assistance from these sources or any other source for the same work or costs. FEMA will deobligate any PA funding that has been provided in the event that another source provides funds to the Applicant for the same clinical care or other costs.

²⁹ The COVID-19 Uninsured Program reimburses for testing and clinical care costs for the uninsured which is being provided at Medicare rates.



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- c. At no time will FEMA request or accept any Personally Identifiable Information related to the medical care of individual COVID-19 patients or for any other individual.
- d. FEMA will reconcile final funding based on any funding provided by another agency or covered by insurance or any other source for the same purpose. FEMA will coordinate with HHS to share information about funding from each agency to assist in preventing duplication of benefits.

5. Time Limitations for the Completion of Work.

- a. For all COVID-19 declarations, FEMA has extended the deadline in accordance with regulatory timeframes for emergency work at 44 C.F.R. §206.204(d) beyond six months of the date of the declaration and will notify applicants no less than 30 days prior to establishment of the deadline.

Handwritten signature

Keith Turi
Assistant Administrator, Recovery Directorate

March 15, 2021
Date

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ADDITIONAL INFORMATION

REVIEW CYCLE

This interim policy will be reviewed periodically during the COVID-19 Public Health Emergency period. The Assistant Administrator for the Recovery Directorate is responsible for authorizing any changes or updates. This interim policy will sunset with the closure of the national emergency declaration for COVID-19 and any subsequent major disaster declarations for COVID-19.

AUTHORITIES and REFERENCES

Authorities

- Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207, as amended
- Title 44 of the Code of Federal Regulations, Part 206, Subpart H
- Title 2 of the Code of Federal Regulations, Part 200

References

- Public Assistance Program and Policy Guide, Version 3.1

DEFINITIONS

To establish consistent terminology for purposes of implementing this policy, the following definitions are provided below. These definitions are specific to this policy and may differ from definitions prescribed for the same or similar terms in other policies.

1. **Medical Care:** Medical Care refers both to assistance provided to support the provision of medical care and assistance for clinical care. Examples of medical care support include eligible facility, equipment, supplies, and staffing costs.
2. **Clinical Care:** Clinical Care refers to medical treatment of individual patients including testing, diagnosis, treatment, hospitalization, prescriptions, and other costs associated with individual patient treatment typically billed to individual patients, their insurance carriers, Medicare, Medicaid, or other pre-existing payment agreements.
3. **Primary Medical Care Facility:** A primary medical care facility is the facility owned and/or operated by an eligible PA Applicant that provides medical care services. This includes any licensed hospital, outpatient facility, rehabilitation facility, or facility for long-term care.
4. **Temporary Medical Facility:** A temporary medical facility is a facility separate from the primary medical care facility that is used to provide medical care services when the primary medical care facility is overwhelmed by the declared event.



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5. **Expanded Medical Facility:** An expanded medical facility is part of the primary medical care facility and refers to an expansion of the primary medical care facility to increase its capacity when the primary medical care facility is overwhelmed by the declared event.
6. **Alternate Care Sites:** Alternate Care Site is a type of Temporary Medical Facility and broadly describes any building or structure of opportunity converted for healthcare use. It provides additional healthcare capacity and capability for an affected community separate from a traditional, established healthcare institution, though healthcare institutions may partner with eligible Applicants operating an Alternate Care Site.
7. **Community-Based Testing Sites:** Community-Based Testing Sites are strategically located sites within a community operated by a SLTT government for the purpose of providing COVID-19 testing to members of the community.
8. **Wraparound Services:** Wraparound services in the context of this policy are the same as those defined in the Alternate Care Site Toolkit. The services will differ at each temporary medical facility. Such services include, but are not limited to, the following: linen and laundry services; food preparation and delivery; biomedical waste removal, including contaminated items such as personal protective equipment; perimeter fencing; contracted security guards; professional cleaning; and other related services. The toolkit and other Alternate Care Site resources are available on the HHS website at <https://asprtracie.hhs.gov/technical-resources/111/covid-19-alternate-care-site-resources>.

MONITORING AND EVALUATION

FEMA will closely monitor the implementation of this policy through close coordination with regional and field staff, as appropriate, as well as interagency partners and SLTT stakeholders.

QUESTIONS

Applicants should direct questions to their respective FEMA regional office.

Exhibit E
(Special Terms and Conditions for Washington State Department of Health
Mass Vaccination FEMA Grant – CFDA #97.036)

The funds allocated for services performed under this contract are Washington State Department of Health funds. The terms included in this agreement and any additional agreements herein are a result of the grant funding requirements.

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. "DOH" shall mean the Department of Health.
- C. "Contract" or "Agreement" means the entire written agreement between DOH and the Contractor, 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. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- 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. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

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

3. AMENDMENTS

This Contract 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.

4. AUDIT

Contractor shall maintain internal controls providing reasonable assurance it is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs; and prepare appropriate financial statements, including a schedule of expenditures of federal awards. If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year.

5. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

a. Clean Air Act

The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure

notification to the Washington State Military Department, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

b. **Federal Water Pollution Control Act**

The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended 33 U.S.C. § 1251 et seq. The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Washington State Military Department, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

6. INDEMNIFICATION

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

7. LAWS

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

United States Laws, Regulations and Circulars (Federal)

(Subrecipients only) Contractor shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirement for Federal Award, 2 CFR 200, Subparts B - F.

(Subrecipients only) Contractor shall comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation.

Contractor shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.

8. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract 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 contract.

The Contractor shall maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity.

The Contractor shall retain such records for a period of six (6) years following the date of final payment.

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.

9. SEVERABILITY

The provisions of this contract 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 contract.

10. SURVIVAL

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



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-243

File ID:	AB2022-243	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: MChriste@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham to provide funding for the Alternative Response Team pilot program, in an amount not to exceed \$161,917 in 2022 and \$259,210 in 2023

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Staff Memo, Proposed Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: City of Bellingham – Alternative Response Team Pilot Program Contract

DATE: April 15, 2022

Attached is a contract between Whatcom County and City of Bellingham for your review and signature.

■ Background and Purpose

The Alternative Response Team (ART) pilot program takes a collaborative approach that brings law enforcement, emergency medical response, human services and other community responders together to create individualized plans to minimize the impact of individuals identified as having a very high impact on each of those systems. ART will be deployed by staff based at What-Comm, 10 hours/day, 7 days/week and there will be a dedicated communication channel and work station for ART at the What-Comm call center.

This contract dedicates funding from the City of Bellingham for staffing and implementation of the ART pilot program.

■ Funding Amount and Source

Funding for this Agreement is provided by the City of Bellingham in an amount not to exceed \$161,917 in 2022 and \$259,210 in 2023. These funds will be included in the 2022 budget. Council approval is required as this award exceeds \$40,000.

Please contact Malora Christensen, Response Systems Manager 360-778-6131 (MChriste@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.



WHATCOM COUNTY CONTRACT INFORMATION SHEET				Whatcom County Contract No. _____	
Originating Department:			85 Health		
Division/Program: (i.e. Dept. Division and Program)			Response Systems Division		
Contract or Grant Administrator:			Dean Wight		
Contractor's / Agency Name:			City of Bellingham		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:			
Does contract require Council Approval?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)			
Is this a grant agreement?		If yes, grantor agency contract number(s):		CFDA#:	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):			
Yes <input type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		124150	
Yes <input type="checkbox"/>	No <input type="checkbox"/>	If yes, RFP and Bid number(s):			
Is this agreement excluded from E-Verify?		No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>		
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 checked="" type="checkbox"/> Interlocal Agreement (between Governments).			<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.		
Contract Amount:(sum of original contract amount and any prior amendments):		Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:			
\$	167,917 (in 2022) + \$259,210 (in 2023)	1. Exercising an option contained in a contract previously approved by the council.			
This Amendment Amount:		2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.			
\$		3. Bid or award is for supplies.			
Total Amended Amount:		4. Equipment is included in Exhibit "B" of the Budget Ordinance			
\$		5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.			
Summary of Scope: This Agreement provides funding for the Health Department's Response System Division's Alternative Response Team Pilot Program.					
Term of Contract:		1 year, 9 months		Expiration Date: 12/31/2023	
Contract Routing:	1. Prepared by:		JT		Date: 04/04/2022
	2. Health Budget Approval:		JG		Date: 04/04/2022
	3. Attorney signoff:		RB		Date: 04/07/2022
	4. AS Finance reviewed:		M Caldwell		Date: 4/5/22
	5. IT reviewed (if IT related):				Date:
	6. Contractor approved:				Date:
	7. Submitted to Exec.:				Date:
	8. Council approved (if necessary):		AB2022-243		Date:
	9. Executive signed:				Date:
	10. Original to Council:				Date:

**FINANCIAL ASSISTANCE AGREEMENT FOR
THE ALTERNATIVE RESPONSE TEAM PILOT PROGRAM
WHATCOM COUNTY – CITY OF BELLINGHAM**

WHATCOM COUNTY, a political subdivision of the State of Washington, acting through the Whatcom County Health Department, (hereinafter the “Recipient”), located at 509 Girard Street, Bellingham, WA 98225 and the **CITY OF BELLINGHAM**, a first-class municipal corporation of the State of Washington (hereinafter the “City”), with offices at 210 Lottie Street, Bellingham, WA 98225, in consideration of the mutual covenants herein, do agree as follows:

1. **PURPOSE:** This Agreement sets out the terms of financial assistance provided by the City to the Recipient to support the Alternative Response Team Pilot Program as further detailed in Exhibit A “Statement of Work”, attached hereto and incorporated herein by this reference.
2. **TERM OF AGREEMENT.** Notwithstanding the date of execution hereof, this Agreement shall be in effect from 04/11/2022 to 12/31/2023.
3. **LIAISON.** The City’s responsible person for this Agreement is Brian Heinrich, Deputy Administrator. The Recipient’s responsible person is Malora Christensen, Response Systems Manager.
4. **STATEMENT OF WORK.** See attached Exhibit A, incorporated herein by this reference.
5. **FUNDS PROVIDED AND METHOD OF PAYMENT.**
 - A. The financial assistance provided to the Recipient shall not exceed **\$167,917 in 2022 and \$259,210 in 2023.**
 - B. The City agrees to financially assist the Recipient only for activities specified in Exhibit A. Payment shall be based on properly executed quarterly invoices. The Recipient shall submit the invoices, documentation and any necessary reports by the 15th of the month, following the period being invoiced, except for January where the same will be due by the 10th of the month. Invoices shall be sent to 210 Lottie Street – Bellingham, WA 98225 or babarr@cob.org. The City will make payment to the Recipient no more than thirty (30) days after said reimbursement request is received and approved by the City.
6. **EXTRA WORK AND CHANGE ORDERS.** Work in addition to or different from that provided for in the Scope of Work section of Exhibit A shall only be allowed by prior authorization in writing, as a modification to this Agreement. Such modifications shall be attached hereto and shall be approved in the same manner as this Agreement.
7. **ACCOUNTING AND AUDIT.** The Recipient agrees to keep records of all financial matters pertaining to this Agreement in accordance with generally accepted accounting principles and to retain the same for a period of three years after termination of this Agreement. The financial records shall be made available to representatives of the City or any other governmental agency with jurisdiction for audit, at such reasonable time and places as the City shall designate.
8. **INDEMNIFICATION AND INSURANCE.** The Recipient agrees to defend the City, hold it harmless, and indemnify it as to all claims, suites, costs, fees and liability arising out of the acts or work of the Recipient, its employees, subcontractors, or agents (including field work) pursuant to this Agreement, where such liability is

incurred as a result of the actions or omissions of such parties. Recipient will obtain and maintain in force adequate insurance and/or self-insurance with coverage limits sufficient to cover potential liability arising within the Scope of Work.

Recipient specifically and expressly waives any immunity that may be granted under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this contract shall not be limited in any way by any limitation on benefits payable to or for any third party under the workers' compensation acts.

9. COMPLIANCE WITH LAWS. The Recipient shall comply with all applicable laws, ordinances, and codes of the local, State, and Federal governments. Recipient shall submit any and all information the City requires to demonstrate compliance with such laws, ordinances, and codes within two weeks of City's request for such information. The Recipient covenants that its employees have no interest and will not acquire interest, direct or indirect, or any other interest which would conflict in any manner or degree with the performance of services hereunder. The Recipient further covenants that in the performance of this Agreement, no person having such interest will be employed.

10. NONDISCRIMINATION IN CLIENT SERVICES. The Recipient shall not, on the grounds of race, color, sex, religion, national origin, creed, marital status, age, sexual orientation, gender identity, or disability, unlawfully deny a qualified individual any facilities, financial aid, services, or other benefits provided under this Agreement or otherwise deny or condition services in a manner that violates any applicable laws against discrimination. If assignment or subcontracting has been authorized, said assignment or subcontract shall include appropriate safeguards against discrimination in client services binding upon each contractor or subcontractor. The Recipient shall take such action as may be required to ensure full compliance with the provisions of this clause, including sanctions for noncompliance.

11. TERMINATION; REDUCTION IN FUNDING.

- A. Should either party hereto believe that the other has failed to perform, or is likely to be unable to substantially perform, all or a material part of its obligations under this Agreement, it shall deliver written notice to that effect to the other, specifying the alleged default and giving the other party fifteen (15) days to cure such default. Thereafter, should the default not be remedied to the satisfaction of the non-defaulting party, this Agreement may be terminated upon seven (7) days written notice (delivered by certified mail).
- B. In the event that funding is withdrawn, reduced or limited in any way after the effective date of this Agreement due to City budgetary constraints or economic downturn resulting in reduced revenues, and prior to its normal completion, the City may summarily terminate the 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 City deems that the continuation of the services covered by this Agreement is no longer in the best interest of the City, the City may summarily terminate this Agreement in whole notwithstanding any other termination of this Agreement. Termination under this Section shall be effective upon receipt of written notice thereof.
- C. Termination of this Agreement shall not prevent the City from invoking those provisions herein necessary to protect or enforce its rights hereunder, which provisions shall survive termination.

12. ASSIGNMENT. Neither party shall assign or delegate any or all interests in this Agreement without first obtaining the written consent of the other party.

13. VENUE STIPULATION. This Agreement has been and shall be considered as having been made and delivered within the State of Washington, and shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action in law or equity, or judicial proceeding for the enforcement of this

EXHIBIT A STATEMENT OF WORK

I. Background

The Alternative Response Team (ART) pilot program takes a collaborative approach that brings law enforcement, emergency medical response, human services and other community responders together to create individualized plans to minimize the impact of individuals identified as having a very high impact on each of those systems. ART will be deployed by staff based at What-Comm, 10 hours/day, 7 days/week and there will be a dedicated communication channel and work station for ART at the What-Comm call center.

II. Scope of Work

The Whatcom County Health Department's Response System Division has been charged to pilot the Alternative Response Team (ART) Program. Specific activities supported with this funding will include:

1. Program deployment from the What-Comm call center by Triage Specialists, 10 hours/day, 7 days/week.
2. A dedicated communication channel and work station for ART at What-Comm.
3. ART staff will include two teams of two, each with at least one Masters MHP and Bellingham based.
4. Bellingham Fire and Police Departments will have continued involvement in future collaborations and the oversight and review of ART.
5. All agencies involved in ART will be involved in monitoring and evaluating plans and decisions on key data requirements.
6. Triage Specialists will be trained to triage calls transferred from regular 911 call-takers and deploy ART teams to scenes.
7. Triage Specialists will be able to monitor teams on scene, request EMT, Law Enforcement follow-up dispatch, if warranted, and involve the Mobile Crisis Outreach Team, Homeless Outreach Team, Ground-Level and Coordinated Engagement, and Law-Enforcement Assisted Diversion teams, as appropriate.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-245

File ID:	AB2022-245	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	DEbergso@co.whatcom.wa.us		
Department:	Facilities Management Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: debergso@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Pacific Security to provide Courthouse Screening Services, in the amount of \$109,500

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This contract is to allow Pacific Security to provide security services at the Whatcom County Courthouse. Pacific Security will provide monitoring services for the parking lots, security screening and x-ray services for the upper floors and basement of the Courthouse

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Information Sheet, Contract

**WHATCOM COUNTY
ADMINISTRATIVE SERVICES**
Whatcom County Courthouse
311 Grand Ave, Suite 108
Bellingham, WA 98225-4083



FACILITIES MANAGEMENT
3720 Williamson Way
Bellingham, WA 98226-9156
Phone: (360) 778-5360
Fax: (360) 778-5361
Facilities@co.whatcom.wa.us

ROB NEY
Project & Operations Manager

MEMO TO: Satpal Singh Sidhu, County Executive

FROM: Rob Ney, Project & Operations Manager

DATE: April 15, 2022

RE: Contract – Courthouse Security Screener Services

Attached is the contract for the Courthouse Security Screener Services between Whatcom County and Pacific Security for your review and signature.

▪ **Background and Purpose**

This contract is to allow Pacific Security to provide security services at the Whatcom County Courthouse. Pacific Security will provide monitoring services of the parking lots, security screening & x-ray services for the upper floors and basement of the Courthouse. These services provide protection for the employees and patrons of the courts and courtrooms.

▪ **Funding Amount and Source**

Funding amount needed for this contract is \$109,500.00 for regular scheduled, after-hours meetings and any additional services that may require building security. These services were approved in the regular 2021 – 2022 Facilities Budget in the amount of \$160,000.

RFP/Q's received:

Allied Universal Security Services
Pacific Security
PPC Solutions Inc.

▪ **Differences from Previous Contract**

This project is a one-time agreement.

Please contact Rob Ney at extension 5378, if you have any questions or concerns regarding the terms of this agreement.

Enclosures

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.
202203029

Originating Department:	Administrative Services
Division/Program: (i.e. Dept. Division and Program)	Facilities Management
Contract or Grant Administrator:	Rob Ney
Contractor's / Agency Name:	Pacific Security

Is this a New Contract? Yes ☒ No ☐ If not, is this an Amendment or Renewal to an Existing Contract? Yes ☐ No ☒
 Yes ☒ No ☐ If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____

Does contract require Council Approval? Yes ☒ No ☐ If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? Yes ☐ No ☒ If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded? Yes ☐ No ☒ If yes, Whatcom County grant contract number(s): _____

Is this contract the result of a RFP or Bid process? Yes ☒ No ☐ If yes, RFP and Bid number(s): 22-04 Contract _____ Cost Center: 507160

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

Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>109,500</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>109,500</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 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.
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Summary of Scope:

This contract is between Whatcom County Facilities Management and Pacific Security for the Courthouse Screening Services performed at the Whatcom County Courthouse located at 311 Grand Avenue, Bellingham WA.

Term of Contract: _____ Expiration Date: 12/31/22

Contract Routing:	1. Prepared by: <u>Dee Ebergson</u>	Date: <u>4/11/22</u>
	2. Attorney signoff: <u>Approved / BW / email</u>	Date: <u>4.15.22</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>4/14/22</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

202203029

**CONTRACT FOR SERVICES
Courthouse Screening Services
Between Whatcom County and Pacific Security**

Pacific Security, 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 18,
Exhibit A (Scope of Work), pp. 19 to 21,
Exhibit B (Afterhours Sample), pp 22,
Exhibit C (Compensation), pp. 23,

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 1st day of May, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the December 31, 2022.

The general purpose or objective of this Agreement is for: Screening Services at the Whatcom County, 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 \$109,500.00. 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 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.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2022.

CONTRACTOR:

Pacific Security

Chad Parker, Principal
chad@actioncln.com

CONTRACTOR INFORMATION:

Pacific Security

Chad Parker, Principal
chad@actioncln.com

Mark Lann, Operations Manager
markl@pacsecurity.com

Address:

2009 Iron Street
Bellingham WA 98225
(360) 733-2884

Mailing Address:

2009 Iron Street
Bellingham WA 98225

WHATCOM COUNTY:

Approved as to form:

Prosecuting Attorney

Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

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. Professional Liability

Professional Liability - \$1,000,000 per occurrence

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage

becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

3. 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.

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

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

35.1 Non-Discrimination in Employment

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Rob Ney, Project & Operations Manager

37.2 Notice:

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

Whatcom County Facilities Management
3720 Williamson Way
Bellingham WA 98226-9156
Attn: Dee Ebergson, Administrative Assistant
(360) 778-5366
DEbergso@co.whatcom.wa.us

Pacific Security
2009 Iron Street
Bellingham WA 98225
Mark Lann, Operations Manager
(360) 733-2884
markl@pacsecurity.com

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

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

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made

public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

40.1 Modifications:

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

40.2 Contractor Commitments, Warranties and Representations:

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

41.1 Severability:

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

41.2 Waiver:

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

42.1 Disputes:

a. General:

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

b. Notice of Potential Claims:

The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the

commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

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

d. Arbitration:

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

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

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

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

Security Screening Contractor will provide three security screeners at one security station in the Whatcom County Courthouse, hours of work will be 7:00 am through approximately 5:15 pm (after building clear) Monday through Friday.

In addition to the normal hours of the Courthouse there are various afterhours events that will be scheduled, Council meetings, night court, teen court, elections and various evening meetings held in the Courthouse. It will be the Contractor's responsibility to keep the security station manned at all times during the scheduled hours. Additional security staff may be needed for afterhours functions.

Security screeners and supervisors provided by the contractor will perform a variety of duties to ensure Courthouse security and protection of visitors and staff. Duties will include, but are not limited to:

- The identification of dangerous objects on persons or in parcels, cases, baggage and other hand-held objects.
- Prevent those objects from being transported into the restricted areas of the Courthouse.
- Monitor the Courthouse parking areas, issue parking violations and respond to other parking related issues.

The detection of prohibited objects will be accomplished by the use of electronic wands, metal detector, pat-down searches, operation of x-ray machines, lifting of baggage (up to 70 lbs.), and screening using electronic and imaging equipment. Courthouse security screeners may perform screening of both the general public and County staff.

The Courthouse will provide all necessary screening equipment including, two-way radios, x-ray machine, metal detector and electronic wands.

Contractor's Duties and Obligations:

1. Contractor is responsible for providing uniforms and furnishing and supervising all uniformed Security Screeners and Supervisors for proper performance in the assigned area of the Courthouse.
2. Contractor is required to pay all salaries, social security, taxes, federal and state unemployment insurance and any other similar taxes relating to such employees.
3. Contractor to provide Whatcom County with names and telephone numbers of screeners and supervisors.
4. The Contractor will use 911 as the primary contact during emergencies

Screeners and supervisors are expected to perform these duties in a courteous and professional manner, consistent with the way the County employees interact with the general public.

Screeners will report to the County's Facilities Project & Operations Manager and/or designee.

All incidents must be brought to the attention of the Facilities Project & Operations Manager. A written report describing the incident must be completed the day of incident a phone call to the Facilities Project & Operations Manager or designee informing them of the incident must be done at the screener's earliest opportunity.

EXHIBIT A
SCOPE OF WORK
COURTHOUSE SECURITY SERVICES

Security Screener Qualification Requirements

1. Screeners and supervisors must be a U.S. Citizen or U.S. National
2. Screeners and supervisors must have a high school diploma, GED or equivalent and at least one year of full-time work experience in security work, aviation screener work, or x-ray technician work.
3. Screeners and supervisors must be currently licensed as a security guard in accordance with the Revised Code of Washington RCW #18.170.
4. Screeners must maintain their certification status and training to operate all necessary tools and equipment associated with this work.
5. Rejected screeners shall not be accepted by owner.

Performance

Security screeners and supervisors must possess the following knowledge, skills, abilities, and characteristics:

1. English Proficiency (i.e., reading, writing, speaking, listening)
2. Mental abilities including visual observation and identification
3. Interpersonal skills such as clear communication, active listening, polite customer service, and patience
4. Work values such as responsibility, dependability, honesty, and integrity
5. Physical abilities must include the capability of repeatedly lifting and carrying parcels, cases or baggage up to 70 lbs. in weight
6. Ability to identify objects by touch
7. Ability to follow written instructions
8. Ability to defuse angry customers

All security screeners and supervisors must meet the following standards

1. Distance vision correctable to 20/30 or better in the best eye and 20/100 or better in the worse eye.
2. Near vision correctable to 20/40 or better binocular
3. Color perception including red, green, blue, yellow, orange, purple, brown, black, white and gray

Note: color filters, including contact lenses, for enhancing color discrimination are prohibited

1. Hearing as measured by audiometry cannot exceed:
 - a. An average hearing loss of 25 decibels (ANSI) at 500, 1000, 2000 and 3000Hz in each ear
 - b. Single reading of 45 decibels at 4000Hz and 6000Hz in each ear
2. Adequate muscular and joint mobility, dexterity and range of motion, strength, and stability to lift and move at least 70 pounds, as well as a complete medical evaluation including cardiovascular system, hypertension, and other factors.

Conditions of Assignment

To be considered for assignment, the screener must be able to:

1. Demonstrate daily a fitness for duty without impairment due to illegal drugs, sleep deprivation, medication or alcohol
2. Pass Drug and Alcohol Screening examinations
3. Pass a background investigation, including a criminal history check

In addition, screeners and supervisors must successfully complete training required by their employer and by Whatcom County

1. Continued assignment is contingent up on passing required training and certification exams on a periodic bases
2. This is a position that required the screener to be fingerprinted, photographed and have completed appropriate security paperwork.

Screeners Guidance

It is important to emphasize that in performing critical inspection and screening duties that personnel may not rely on generalized stereotypes, attitudes, or beliefs about the propensity of members of any racial, ethnic, religious, or group of a special national origin to engage in unlawful activity. Efforts to secure the safety of the Whatcom County Courthouse should not conflict with the obligation to protect the Constitution and Civil Rights of county employees or visitors to the Courthouse. It is illegal under federal law for government or private sector employees to discriminate on the basis of race, color, national origin, religion, sex, sexual orientation or ancestry.

Members of certain religious groups wear head coverings, veils, or other garments as part of their religious observances. Care must be taken that in such cases the screeners use tact and diplomacy when performing their inspections. Some religious groups carry symbols of their religion or other articles require by their religion. Sikhs may carry a sheathed ceremonial sword known as a kirpan. While it is part of their observance it is still a weapon, i.e. knife, and as such should not be allowed in the judicial areas of the Courthouse. In some cases a miniature kirpan may be worn on a necklace or bracelet. These too should be examined using the same criteria used for knives to see if they qualify as a weapon.

In the event an alarm is triggered in the area of a head covering during a screening inspection the subject should be politely asked to either remove the head covering or return when the object within that triggered the alarm has been removed.

EXHIBIT "B"

Sample Afterhours Security Schedule

Date	Location	Purpose	Start	End
02/04/21	Rotunda/1 st Floor	Diking District Election	5:00 pm	9:00 pm
02/12/21	Council Chambers	County Council	5:00 pm	11:00 pm
02/16/21	3 rd Floor	Mock Trial	7:00 am	6:00 pm
02/26/21	Council Chambers	County Council	5:00 pm	11:00 pm
02/27/21	5 th Floor	Teen Court	5:00 pm	8:30 PM

On occasion provide security for outside contractors, i.e. carpet installation, carpet cleaning, etc.

EXHIBIT "C"
(COMPENSATION)

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed one hundred nine thousand five hundred dollars and zero cents (\$109,500.00) including Washington State Sales Tax.

The Contract Number, set forth, shall be included on all billings or correspondence in connection therewith.

Contractor may bill the County progressively not more than once per month.

Itemized invoices detailing security personnel and hours worked must be submitted per the rates listed below.

Screener/Officer	\$25.40/hr	\$36.60/hr OT rate
Supervisor	\$28.50/hr	\$42.75/hr OT rate



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-246

File ID:	AB2022-246	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Lighthouse Mission Ministries to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$117,611

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Staff Memo, Proposed Contract



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Lighthouse Mission Ministries – Supplemental Pay Premium Contract

DATE: April 18, 2022

Attached is a contract between Whatcom County and Lighthouse Mission Ministries for your review and signature.

- **Background and Purpose**

This contract provides funding for supplemental pay premiums to staff providing direct services. This is a non-competitive contracting situation wherein the County will reimburse supplemental pay premiums in two rounds, up to \$1,000 each round. To be eligible, employees must work 80 or more hours in direct service in the 30 days prior to the end of the premium period. The premiums are funded with dedicated grant funding available from Washington State Department of Commerce Emergency Solutions COVID-19 (ESG-CV) Grant and County American Rescue Plan Act (ARPA) funds. The supplemental pay premiums are being provided in response to ongoing challenges and difficult work environments for employees in the professional housing and homeless services field.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$117,611, is provided by local document recording fees, the Washington State Department of Commerce ESG-CV Grant (CFDA 14.231) and County ARPA (CFDA 21.027) funds. These funds are included in the 2022 budget. Council approval is required as funding exceeds \$40,000.

Please contact Ann Beck, Human Services Manager at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us) if you have any questions or concerns regarding this request.



WHATCOM COUNTY CONTRACT INFORMATION SHEET				Whatcom County Contract No.	
Originating Department:			85 Health		
Division/Program: (i.e. Dept. Division and Program)			8550 Human Services / 855040 Housing Program		
Contract or Grant Administrator:			Christopher D'Onofrio		
Contractor's / Agency Name:			Lighthouse Mission Ministries		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:			
Does contract require Council Approval?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)			
Is this a grant agreement?		If yes, grantor agency contract number(s):		CFDA#:	14.231 / 21.027
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):		202008014 / ARPA	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		122200 / 122800 / 1388502	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):			
Is this agreement excluded from E-Verify?		No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>		
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 exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:			
\$	117,611	1. Exercising an option contained in a contract previously approved by the council.			
This Amendment Amount:		2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.			
\$		3. Bid or award is for supplies.			
Total Amended Amount:		4. Equipment is included in Exhibit "B" of the Budget Ordinance			
\$		5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.			
Summary of Scope: This contract provides funding for supplemental pay premiums for staff providing direct services.					
Term of Contract:		5 Months		Expiration Date: 9/15/2022	
Contract Routing:	1. Prepared by:		JT		Date: 03/15/2022
	2. Health Budget Approval:		JG		Date: 04/04/2022
	3. Attorney signoff:		RB		Date: 04/05/2022
	4. AS Finance reviewed:		Bbennett		Date: 4/18/22
	5. IT reviewed (if IT related):				Date:
	6. Contractor approved:				Date:
	7. Submitted to Exec.:				Date:
	8. Council approved (if necessary):				Date:
	9. Executive signed:				Date:
	10. Original to Council:				Date:

CONTRACT FOR SERVICES
Between Whatcom County and Lighthouse Mission Ministries

Lighthouse Mission Ministries, 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), p. 14,
Exhibit B (Compensation), p. 15,
Exhibit C (Certificate of Insurance), p. 16,
Exhibit D (Special Terms and Conditions – Commerce ESG-CV), pp. 17 to 21,
Exhibit E (Subaward Information), p. 22,
Exhibit F (American Rescue Plan Act Subrecipient Agreement), pp. 23 to 27,
Exhibit G (Subaward Information), p. 28,
Exhibit H (ARPA Eligibility Memo), pp. 29 to 31,
Exhibit I (2022 Whatcom County Health Department Supplemental Pay Policy Guidelines).

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 15th day of April, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 15th day of September, 2022.

The general purpose or objective of this Agreement is to provide supplemental premium pay for staff providing direct services 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 \$117,611. 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 on:

CONTRACTOR:

Lighthouse Mission Ministries
910 W Holly Street
Bellingham, WA 98225

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

Hans Erchinger-Davis, Executive Director

Recommended for Approval:

Date _____

Date _____

Approved as to form:

Date _____

Accepted for Whatcom County:

Date _____

CONTRACTOR INFORMATION:

hanse@thelighthousemission.org

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension:

The duration 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 (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor

further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Christopher D'Onofrio, Program Specialist
Whatcom County Health Department

37.2 Notice:

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

Whatcom County Health Department
Christopher D'Onofrio, Program Specialist
509 Girard Street
Bellingham, WA 98225
360-778-6049
CDonofri@co.whatcom.wa.us.

Lighthouse Mission Ministries
Hans Erchinger-Davis, Executive Director
910 W Holly Street
Bellingham, WA 98225
360-733-5120
hanse@thelighthousemission.org

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

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

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

40.1 Modifications:

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

40.2 Contractor Commitments, Warranties and Representations:

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

41.1 Severability:

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

41.2 Waiver:

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

42.1 Disputes:

a. General:

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

b. Notice of Potential Claims:

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

c. Detailed Claim:

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

d. Arbitration:

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

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

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

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

I. Background

Lighthouse Mission Ministries provides low-barrier night-by-night shelter for people experiencing homelessness in Whatcom County. To offset prolonged challenges and difficult work environments for employees, Whatcom County will reimburse supplemental pay premiums for staff providing direct services. These reimbursements will be made in accordance with supplemental pay requirements of the Washington State Department of Commerce Emergency Solutions Grant – COVID-19 and the American Rescue Plan Act.

II. Statement of Work

The Contractor will be reimbursed for supplemental pay premiums provided to staff providing direct services, per the Guidelines outlined in Exhibit I – 2022 Whatcom County Supplemental Pay Policy Guidelines. Staff who support street outreach, emergency shelter (including day centers), rapid rehousing and rapid rehousing projects and as outlined in their job descriptions, are required to provide direct service to clients or the general public are eligible for these supplemental pay premiums, as follows:

- A. Each eligible employee will receive \$1,000 gross pay through two rounds of supplemental pay premiums.
 - 1. The first round of supplemental pay premiums is available to all eligible staff employed on April 15, 2022, have a hire date on or before March 1, 2022 and worked 80 hours within the 30 days prior to the end date of the pay premium period.
 - 2. The second round of supplemental pay premiums is available to all eligible staff employed on September 1, 2022, have a hire date that is on or before August 1, 2022, and worked 80 hours within the 30 days prior to the end date of the pay premium period.
- B. The Contractor will develop written policies prior to issuing supplemental pay premiums to staff which include:
 - 1. Supplemental pay premium amount
 - 2. Eligibility timing for supplemental pay premium (date of initial eligibility for first round and date of eligibility for second round)
 - 3. Eligible job titles
 - a. FLSA non-exempt employees earning less than \$103,000 annually
 - b. Exempt employees earning less than \$103,000 annually and with a written justification
 - 4. Recordkeeping requirements which include:
 - a. Maintaining timesheets that demonstrate employment and hours worked for each period of eligibility
 - b. Job descriptions
 - c. Current, written supplemental pay premium policies.

- C. The contractor will comply with relevant Washington State 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/>

EXHIBIT "B"
(COMPENSATION)

- I. Budget and Source of Funding:** The source of funding for this contract, in an amount not to exceed \$117,611, is local document recording fees, the Washington State Department of Commerce Emergency Solutions COVID-19 (ESG-CV) Grant (CFDA 14.231) and County American Rescue Plan Act (ARPA) Funds (CFDA 21.027). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

Cost Description	Documents Required Each Invoice	Budget
ESG-CV Eligible 2022 Supplemental Pay (April-September)	<ul style="list-style-type: none">• Payroll register for pay period(s) that the supplemental pay premium was paid out• Timesheets for eligible staff for the 30-day period(s) prior to the end of the pay premium periods.	\$60,750
ARPA Eligible 2022 Supplemental Pay (April-September)		\$46,170
*ESG-CV Indirect @ 7%		\$4,252
*Document Recording Fee Funded Indirect @ 3% (to supplement ESG-CV limit)		\$1,822
*ARPA Indirect @ 10%		\$4,617
TOTAL		\$117,611

*In no instance shall the indirect exceed the rates indicated above.

II. Invoicing

1. The Contractor shall submit invoices to (include contract/PO #) HL-BusinessOffice@co.whatcom.wa.us.
2. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Invoices submitted for payment must include the items identified in the table above. **Final invoices must be submitted no later than September 30, 2022.**
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 "C"
(CERTIFICATE OF INSURANCE)

“Exhibit D”
(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.

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 E”
ESG-CV SUBAWARD INFORMATION**

	Item Description	Contract Information
1	Subrecipient Name (Exactly as listed in DUNS): www.SAM.gov	Lighthouse Mission Ministries
2	Subrecipient DUNS Number: www.SAM.gov	004239081
3	Federal Award Identification Number (FAIN):	E-20-DW-53-0001
4	Federal Award Date (from Federal contract)	10/01/2020 – 09/30/2022
5	Start and End Date of the contract:	04/15/2022 – 09/30/2022
6	Amount of Federal Funds Obligated by this action:	\$3,044,770
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (current and past obligations):	\$65,002
8	Total Amount of the Federal Award <u>committed</u> to the subrecipient through Whatcom County:	\$65,002
9	Project description from Federal Award:	To assist people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness and to address the needs of people in emergency shelters and unsheltered situations.
10	Name of the Federal awarding agency:	U.S. Department of Housing & Urban Development
11	Name of the pass-through entity/entities:	WA State Department of Commerce / Whatcom County
12	Contact information for awarding official- (Name of County project coordinator)	Christopher D’Onofrio
13	Contact information for awarding official- General Contact email or phone number:	360-778-6049 CDonofri@co.whatcom.wa.us
14	CFDA Number	14.231
15	CFDA Name Program Name	Emergency Solutions Grant Program
16	Is the award Research and Development?	No
17	Indirect Cost Rate per the Federal Award	Not specified
18	Federal requirements imposed on the subrecipient by Whatcom County:	See Exhibit D
19	Additional requirements imposed by Whatcom County to meet its own responsibilities to the awarding agency:	See Scope of Work
20	Indirect Rate: Subrecipient approved rate or de minimis	7%
21	Access to subrecipient’s accounting records and financial statements as needed.	Yes
22	Closeout Requirements	Yes

“Exhibit F”
American Rescue Plan Act Funding
Subrecipient Agreement

The Contractor is considered a subrecipient for purposes of this contract and will hereafter be referred to as Subrecipient for this portion of the contract. Source of funding is Coronavirus State and Local Fiscal Recovery Funds, CFDA No. 21.027

1. COMPLIANCE WITH LAWS

- A. The Subrecipient and the County shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to United States Laws, Regulations and Circulars (Federal).
- B. The Subrecipient shall comply with the American Rescue Plan Act of 2021, PL 117-2, Section 9901 regarding allowable expenditures. (The Subrecipient shall also comply with all federal guidance regarding the Coronavirus State and Local Fiscal Recovery funds, including the Final Rule at 31 CFR Part 35 and U.S. Treasury FAQs.
- C. The Subrecipient shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- D. Other federal regulations applicable to this award include:
 - (i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - (ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R., Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - (iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 80 (including the requirement to include a term or condition in all lower tier covered transaction (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - (iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - (v) Governmentwide Requirement for Drug-Free Workplace, 31 CFR Part 20.
 - (vi) New Restrictions on Lobbying, 31 CFR Part 21.
 - (vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 USC§§ 4601-4655) and implementing regulations
 - (viii) Generally applicable federal environmental laws and regulations.
- E. The Subrecipient shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.
- F. The Subrecipient shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of Services under this Agreement. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the grounds of race, color, or national origin under program or activities receiving federal financial assistance.
 - (ii) The Fair Housing Act, Title VII-IX of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;
 - (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;

- (iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - (v) The American with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities and services provided or made available by state and local governments or instrumentalities or agencies thereto.
 - (vi) The Subrecipient shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this Agreement.
- G. Subrecipient must disclose in writing to Department of Treasury, or the County, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
- H. Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
- I. Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.
- J. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- (i) A member of Congress or a representative of a committee of Congress;
- (ii) An Inspector General;
- (iii) The Government Accountability Office;
- (iv) A Treasury employee responsible for contract or grant oversight or management;
- (v) An authorized official of the Department of Justice or other law enforcement agency;
- (vi) A court or grand jury; or
- (vii) A management official or other employee of Subrecipient, contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

- K. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federal assisted programs and activities for individuals who, because of national denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
- L. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts program, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067.
- M. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient, Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.

- N. Subrecipient acknowledges and agrees that it must require any contractors, subcontractors, successors, transferees, and assignees to comply with assurances contained in sections J, K, L and M herein-above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the

Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

2. ACKNOWLEDGEMENT OF FEDERAL FUNDS

Grant Funds paid out under this Agreement are made available and are subject to Section 603(b) of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021. From and after the effective date of this Agreement, the Subrecipient agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Subrecipient describing programs or projects funded in whole or in part with federal funds under this Agreement, shall contain the following statement(s):

This project was supported, in whole or in part, by American Rescue Plan Act funding awarded to Whatcom County by the U.S. Department of Treasury.

3. REPAYMENT OF FUNDS TO THE COUNTY

- A. The Subrecipient shall return Grant Funds disbursed to it by the County under this Agreement for return by the County to the U.S. Department of the Treasury, upon the occurrence of any of the following events: (a) if overpayments are made by the County; or (b) if an audit of the Services by the U.S. Department of the Treasury, the State, or the County determines that the funds have been expended for purposes not permitted by 42 USC § 803(c)(1), 31 CFR Part 35, U.S. Treasury FAQs, the U.S. Department of the Treasury, the County, state law, or this Agreement. In such a case, the County shall make a written demand upon the Subrecipient for repayment, and the Subrecipient shall be obligated to repay to the County the funds demanded within sixty (60) calendar days of the demand.
- B. No exercise by the County of the right to demand repayment of funds from the Subrecipient shall foreclose the County from making an additional demand for repayment if a return of additional funds is required by the U.S. Department of the Treasury; the County's right to demand repayment from the Subrecipient may be exercised as often as necessary to recoup from the Subrecipient all funds required to be returned by the County to the U.S. Department of the Treasury.
- C. The Subrecipient is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

4. NONDISCRIMINATION AND EQUAL OPPORTUNITY

- A. General Provisions
Subrecipient shall make the facilities available to the public in a manner that assures fair, equal, and non-discriminatory treatment to all persons without regard to race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability. No personnel shall be refused service, be given discriminatory treatment, be denied any privilege, use of facilities, or participation in activities on account of race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability, nor shall any person be required to participate in any religious worship, exercise, or instruction. The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction.
- B. Equal Access to Housing Regardless of Sexual Orientation or Gender Identity
Subrecipient shall abide by all provisions of the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, as set forth in 24 CFR, Parts 5 and 570. These provisions ensure that any qualified individual or family is not denied equal access to housing. In addition, the RECIPIENT shall not inquire about the sexual orientation or gender identity of an applicant for, or occupant of, housing assisted under this Agreement.
- C. Housing Preferences
Projects which have committed to limit eligibility or preference to a particular segment of the population may do so only if permitted by Fair Housing Act restrictions.

Any limitation or preference in housing must not violate nondiscrimination provisions in 24 CFR § 92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR part 574, the Shelter Plus Care program under 24 CFR part 582, the Supportive Housing program under 24 CFR part 583, supportive housing for the elderly or persons with disabilities under 24 CFR part 891), and the limit or preference is tailored to serve that segment of the population.

If the Project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the Project may have a limitation or preference for persons with disabilities who need services offered at a project only if:

- The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
- Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and
- Such services cannot be provided in a non-segregated setting. The families must not be required to accept the services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

D. **TDD/TTY or Relay Service Required**

Subrecipient agrees to list a TDD/TTY or the Washington Relay telephone number on all of the written policies and documents that they make available to participants, beneficiaries, or employees, including their letterhead, materials used to market programs, and any other public document that lists a telephone number.

5. DOMESTIC PREFERENCES FOR PROCUREMENTS

Domestic Preference for Procurements

As appropriate, and to the extent consistent with the law, the subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

6. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause –

B. *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (c) of this clause applies, the subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - d. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. *Exceptions.*

- i. This clause does not prohibit subrecipients from providing –
 - a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:

- a. Covered telecommunications equipment or services that:
 - i. Are *not used* as a substantial or essential component of any system; and
 - ii. Are *not used* critical technology of any system.
- b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting Requirement.

- i. In the event the subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the subrecipient is notified of such by a subcontractor at any tier or by any other source, the subrecipient shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - a. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - b. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the subrecipient shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. Subcontracts. The Subrecipient shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

7. RECORDS MAINTENANCE

The Subrecipient shall maintain books, records, documents, data and other evidence relating to this contract 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 contract.

The Subrecipient shall maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity.

The Subrecipient shall retain such records for a period of five (5) years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

“Exhibit G”
ARPA SUBAWARD INFORMATION

	Item Description	Contract Information
1	Subrecipient Name (Exactly as listed in DUNS): www.SAM.gov	Lighthouse Mission Ministries
2	Subrecipient DUNS Number: www.SAM.gov	004239081
3	Federal Award Identification Number (FAIN):	SLFRP1195
4	Federal Award Date (from Federal contract)	05/13/2021
5	Start and End Date of the contract:	03/03/2021 – 12/31/2026
6	Amount of Federal Funds Obligated by this action:	\$44,528,542
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (current and past obligations):	\$50,787
8	Total Amount of the Federal Award <u>committed</u> to the subrecipient through Whatcom County:	\$50,787
9	Project description from Federal Award:	Coronavirus Local Fiscal Recovery
10	Name of the Federal awarding agency:	U.S. Department of the Treasury
11	Name of the pass-through entity/entities:	Whatcom County
12	Contact information for awarding official- (Name of County project coordinator)	Christopher D’Onofrio
13	Contact information for awarding official- General Contact email or phone number:	360-778-6049 CDonofri@co.whatcom.wa.us
14	CFDA Number	21.027
15	CFDA Name Program Name	Coronavirus State and Local Fiscal Recovery Funds
16	Is the award Research and Development?	No
17	Indirect Cost Rate per the Federal Award	Not specified
18	Federal requirements imposed on the subrecipient by Whatcom County:	See Exhibit F
19	Additional requirements imposed by Whatcom County to meet its own responsibilities to the awarding agency:	See Scope of Work
20	Indirect Rate: Subrecipient approved rate or de minimis	10%
21	Access to subrecipient’s accounting records and financial statements as needed.	Yes
22	Closeout Requirements	Yes

Exhibit H

WHATCOM COUNTY HEALTH DEPARTMENT



ERIKA LAUTENBACH, MPH, DIRECTOR

AMY HARLEY, MD, MPH, CO-HEALTH OFFICER
GREG THOMPSON, MD, MPH, CO-HEALTH OFFICER

MEMORANDUM TO FILE

FROM: ANN BECK, WHATCOM COUNTY HEALTH DEPARTMENT HUMAN SERVICES MANAGER
DATE: April 4, 2022
RE: AMERICAN RECOVERY PLAN ACT - DETERMINATION OF ELIGIBLE USE for HOMELESS HOUSING SYSTEM STAFF SUPPLEMENTAL PAY PREMIUMS

Section 1: Eligible Use

The Department of the Treasury Final Rule implementing the Coronavirus State Fiscal Recovery Fund and the Local Fiscal Recovery Fund (SLFRF) established under the American Rescue Plan, allows funds to be for the purposes of providing premium pay for essential workers. Specifically, in the *Eligible Uses* section, SLFRF's final rule states that "As Americans return to work and governments relax certain rules, essential workers will continue to bear the brunt of the risk of maintain the ongoing operation of vital facilities and services. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities. Premium pay is designed to address the disparity between the critical services provided by and the risks taken by essential workers and the relatively low compensation they tend to receive." The Legal and Finance Departments concur that staff's proposed program elements are eligible uses of County ARPA grant funds. The proposed use of funds is summarized in Section 3 of this memo.

Federal Regulations

Federal Register Vol 87, No 18, January 27, 2022 Rules & Regulations – See Page 4397-98

<https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf>

On Page 4397 the final rule defines the framework for those eligible for premium pay:

*The interim final rule established a three-part framework for recipients seeking to use SLFRF funds for premium pay. First, to receive premium pay one must be an **eligible worker**. Second, an **eligible worker must also perform essential work**. Finally, **premium pay must respond to workers performing essential work during the COVID-19 public health emergency**.*

On page 4397, the ARPA defines "eligible workers" as:

those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each . . . [government] may designate as critical to protect the health and wellbeing of [its] residents.

On page 4398, the documented Rules and Regulations clarifies the Chief Executive's discretion to designate additional sectors as critical:

"While all such public employees are "eligible workers" and the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical, in order to receive premium pay, these workers must still meet the other premium pay requirements (e.g., performing essential work). Treasury recognizes that the list of "essential critical infrastructure sectors" includes both occupations and sectors."

On page 4398 the Rules and Regulations defines "Essential Work":

509 GIRARD STREET
BELLINGHAM, WA 98225-4005
360.778.6000 | FAX
360.778.6001
WHATCOMCOUNTYHEALTH



Whatcom County
HEALTH
Department

1500 NORTH STATE STREET
BELLINGHAM, WA 98225-4551
360.778.6100 | FAX 360.778.6101
WWW.WHATCOMCOUNTY.US/HEALTH

"The interim final rule defined "essential work" as work that (1) is not performed while teleworking from a residence and (2) involves either (i) regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work or (ii) regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work. Treasury adopted this definition of essential work to ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work during a pandemic."

U.S. Department of Housing and Urban Development Notice CPD-20-08

(<https://www.hud.gov/sites/dfiles/OCHCO/documents/20-08cpdn.pdf>)

This notice, dated September 1, 2020, applies to all Emergency Solutions Grant funding issued through the Office of Community Planning and Development. Page 13 begins with an overview of hazard pay:

"Hazard Pay. As permitted by the CARES Act, funds may be used to pay hazard pay for recipient or subrecipient-staff working directly to prevent, prepare for, and respond to coronavirus among persons who are homeless or at risk of homelessness. Examples of recipient or subrecipient staff working directly in support of coronavirus response include emergency shelter intake staff, street outreach teams, emergency shelter maintenance staff, emergency shelter security staff, staff providing essential services (e.g., outpatient health or mental health, housing navigators), and staff in proximity to persons with coronavirus or working in locations with a high likelihood of contracting coronavirus."

Section 2: Summary of Impacted Industry

The workforce that provides direct services to people who are experiencing or are at-risk of homelessness was compelled to rapidly expand in 2020 to accommodate an unprecedented surge in demand for housing stability support. These staff members include individuals working in projects that focus on street outreach, emergency shelters, subsidized rental housing projects, those working to ensure stability for formerly homeless individuals in permanent supportive housing projects, and the intake and assessment personnel who serve as an access point for people seeking a variety of housing-related services. Because this work relies on face-to-face engagement with a vulnerable population and cannot shift their work to digital platforms, the heightened risk of contracting COVID and hardships brought about by the pandemic's impact on this industry is widespread and enduring.

Section 3: Summary of Proposed Uses

The proposed use is primarily focused on stabilizing the workforce within the housing services sector that has been under significant strain since March of 2020. In addition, fully staffed service provider agencies will be better situated to deliver high-quality services that positively impact clients who receive those services and by extension the community writ large.

Agencies will be funded to provide two payments of \$1,000 to all direct-service staff (one in April and one in September). Funds would support partner agencies to support their staff who provide face-to-face support services in the housing services industry. This pair of payments will be provided to respond to ongoing challenges and difficult work environments for employees in the professional housing and homeless services field.

Exhibit I

WHATCOM COUNTY HEALTH DEPARTMENT



ERIKA LAUTENBACH, MPH, DIRECTOR
AMY HARLEY, MD, MPH, CO-HEALTH OFFICER
GREG THOMPSON, MD, MPH, CO-HEALTH OFFICER

2022 Supplemental Pay Policies

A. Duration

1. The first round of supplemental pay premiums is available for all eligible staff employed by each participating Agency on April 15, 2022, have a hire date on or before March 1, 2022, and worked 80 hours within the 30 days prior to the end of the pay premium period.
2. The second round of supplemental pay premiums is available for eligible staff who are employed on September 1, 2022, have a hire date that is on or before August 1, 2022 and worked 80 hours within the 30 days prior to the end of the pay premium period.
 - Each agency will have discretion in their choice to include new staff who are hired during the months of April, May, June, and July and meet the above criteria in order to align with internal policies and create equity across departments of their agency.
3. All staff employed for the entirety of the first eligibility period (March 1, 2022 through April 15, 2022) and engaging in the activities described in the section below, will receive supplemental pay premiums in April. All of those staff who maintain eligible employment in job positions that are eligible for supplemental pay premiums will be eligible for the second round of pay premiums in September.

B. Eligibility Based on Job Descriptions

Eligible staff are those who are FLSA non-exempt (or exempt employees with a written justification) who earn less than \$103,000 annually and who support street outreach, emergency shelter (including day centers), rapid rehousing and rapid rehousing projects, and delivery of rental assistance, regardless of the funding source paying for those particular hours if their job duties, as described in their job descriptions, require them to provide direct service to clients or the general public.

C. Amount

Each round of supplemental pay premiums will provide each eligible staff with \$1,000 gross pay.

D. Agency Requirements

In order to implement this program for supplemental pay premiums, an organization must have written policies prior to issuing the funding which include: the supplemental pay premium amount, eligibility timing for the supplemental pay premium (date of initial eligibility for first round and date of eligibility for second round), who is eligible (job titles), and the recordkeeping procedures. This should be reflected in the written pay premium policies, including the accounting basis (cash or accrual) selected for costing each type of pay premium to ensure it is consistently followed by the grantee/subgrantee for specified groupings of employees. Recordkeeping requirements include maintaining timesheets that demonstrate employment at each date of eligibility, job descriptions, and the updated written pay premium policies. These records must be provided in the event of state and/or county audits of these funds.

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WHATCOMCOUNTYHEALTH



Whatcom County
HEALTH
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WWW.WHATCOMCOUNTY.US/HEALTH



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-247

File ID:	AB2022-247	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: sbatdorf@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Mount Vernon Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$7,108.85

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Mount Vernon Police Department to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$7,108.85 in use fees and taxes for Whatcom County

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff memo, Interlocal Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Michael McFarlane, Director

DATE: April 12, 2022

RE: Range Use Agreement – Mount Vernon Police Department

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and the Mount Vernon Police Department for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with the Mount Vernon Police Department for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$7,108.85 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Parks & Recreation
Division/Program: (i.e. Dept. Division and Program)	Parks / M&O / Plantation Rifle Range
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	Mount Vernon Police Department
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/>	
Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> 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="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract _____	
Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: 6335	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> 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"/> Goods and services provided due to an emergency	
<input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	
<input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.	
<input checked="" 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): \$ 7,108.85 This Amendment Amount: \$ _____ Total Amended Amount: \$ 7,108.85	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: <ol style="list-style-type: none"> 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope:	
Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Mount Vernon Police Department for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$7,108.85 in use fees and taxes for the County.	
Term of Contract: 1 year Expiration Date: 12/31/2022	

Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 4/12/2022
	2. Attorney signoff: <u>Brandon Walbron via email</u>	Date: <u>4/12/22</u>
	3. AS Finance reviewed: <u>Mananne Caldwell via email</u>	Date: <u>4/12/22</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
WHATCOM COUNTY (PARKS & RECREATION)
AND MOUNT VERNON POLICE DEPARTMENT

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and Mount Vernon Police Department (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to

a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
- G. A written report of all accidents, damage or injury that occurs shall be provided immediately or no later than 24 hours to the County. The written report shall provide sufficient details of the incident, including the date, time, circumstances and nature of injury or damage, and the name of the injured party, witnesses and Contracting Entity's Supervisor present at the time of the incident. The written report shall be submitted to Whatcom County Parks and Recreation Department Office or to the Range County personnel.
- H. Check out the Range key from the County's Representative. The Range key provides limited access to Range facilities. Access shall include: entry gate access, access to approved facilities, and public spaces. The Contracting Entity shall maintain control of the issued key at all times, including keeping the key secured when not in use and maintaining a log of any employees provided use of the key. The Contracting Entity shall not provide access to the key for vendors or contractors for any purpose. Any keys provided to the Contracting Entity may not be copied or duplicated.
- I. The Contracting Entity shall maintain a sign-in log for each exclusive use day. The log shall include, at a minimum, the signature of the Contracting Entity supervisor or coordinator, the Range Safety Officer, their phone numbers and all employees participating in Contracting Entity activities. The sign-in logs shall be provided to the County's Representative at least quarterly.
- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.

- K. All litter, trash, or debris left by the Contracting Entity shall be picked up and disposed of in appropriate receptacles provided at the Range.
- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.
- N. Contracting entity shall ensure its members are in compliance with Whatcom County Health Department COVID-19 requirements at the time of use.

USE OF THE RANGE

- A. The Contracting Entity shall have exclusive use of the Range in the year 2022 for Ten (10) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives.

This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.

- B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:
 - Be during periods when the Range is normally scheduled to be opened to the general public;
 - Be subject to all rules and conditions of use by the general public except for payment of fees;
 - Not interfere with normal, customary use of the Range;
 - The use is for practice and training as an officer.
 - Does not include supplies or Trap Range use.
 - Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2022 through December 31, 2022.

4. MANNER OF FINANCING:

- A. Contracting Entity shall pay a fee of Seven Thousand, One Hundred Eight Dollars and Eighty-Five Cents (\$7,108.85).

10 Days	@ \$571.88 per day	= \$5,718.80
45 Officers	@ \$18.38 per officer	= \$827.10
	Subtotal	= \$6,545.90
	Sales Tax	= \$562.95
	Total	= \$7,108.85

- B. The payment shall be due on or before sixty days of signed contract. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual ten (10) day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Detective Wayne Jones
Phone Number: 360-336-6269
Email: waynej@mountvernonwa.gov

5.2 Whatcom County's representative shall be:

Mike McKenzie
Regional Park Supervisor
Phone Number: 360-296-6083
Email: MMckenzi@co.whatcom.wa.us

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity 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 act or omission, negligent or otherwise, of the Contracting Entity, its employees, agents, participants or volunteers or Contracting Entity's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's activity and use under this Agreement; or 3) are based upon the Contracting Entity or their participants, employees, agents, or volunteers, or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County by reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's Indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

10. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

11. EXTENSION:

This Agreement be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three (3) years.

12. SEVERABILITY:

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

13. ENTIRE AGREEMENT:

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this 1 day of January, 2022.

APPROVED:

Contracting Entity

Dated this 8 day of April, 2022.



Contracting Entity Signatory Name, Title

APPROVED AS TO FORM:



Contracting Entity, Attorney

WHATCOM COUNTY

Satpal Sidhu, County Executive

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 20__, before me personally appeared Satpal Sidhu, to me known to be the County Executive of WHATCOM COUNTY and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this _____ day of _____, 20____.

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission expires: _____

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

APPROVED AS TO FORM:

Approved by email B/W
County Deputy Prosecuting Attorney



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-248

File ID:	AB2022-248	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	SBatdorf@co.whatcom.wa.us		
Department:	Parks and Recreation Department	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: sbatdorf@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Sedro-Woolley Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$6,669.71

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement allows Sedro-Woolley Police Department to use the Plantation Rifle Range for the purpose of providing firearms qualifications for personnel, generating \$6,669.71 in use fees and taxes for Whatcom County

HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
<hr/>			

Attachments: Staff memo, Interlocal Agreement



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Michael McFarlane, Director 

DATE: April 12, 2022

RE: Range Use Agreement – Sedro-Woolley Police Department

Enclosed is the Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and the Sedro-Woolley Police Department for use of the Plantation Rifle Range to provide firearms qualifications for commissioned and non-commissioned personnel.

Whatcom County Parks & Recreation has had a collaborative agreement with the Sedro-Woolley Police Department for use of the Range to train their personnel for several years. This Interlocal Cooperative Agreement generates \$6,669.71 in budgeted revenue for Whatcom County and outlines the terms and conditions for use of the Range.

Please feel free to contact Christ Thomsen, Parks Operation Manager at extension 5865 if you have any additional questions or concerns.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Parks & Recreation
Division/Program: (i.e. Dept. Division and Program)	Parks / M&O / Plantation Rifle Range
Contract or Grant Administrator:	Christ Thomsen
Contractor's / Agency Name:	Sedro-Woolley Police Department
Is this a New Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> 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="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: <u>6335</u>	
Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> 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"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" 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): \$ <u>6,669.71</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>6,669.71</u>	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when : 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope:	
Interlocal Cooperative Agreement between Whatcom County Parks & Recreation and Sedro-Woolley Police Department for use of the Plantation Rifle Range for the purpose of providing firearms qualifications for commissioned and non-commissioned personnel. Generates \$6,669.71 in use fees and taxes for the County.	
Term of Contract: 1 year Expiration Date: 12/31/2022	

Contract Routing:	1. Prepared by: Shannon Batdorf	Date: 4/1/2022
	2. Attorney signoff: Brandon Walstrom via email	Date: 4/4/22
	3. AS Finance reviewed: Marianne Caldwell via email	Date: 4/5/22
	4. IT reviewed (if IT related):	Date:
	5. Contractor signed:	Date:
	6. Submitted to Exec.:	Date:
	7. Council approved (if necessary):	Date:
	8. Executive signed:	Date:
	9. Original to Council:	Date:

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
WHATCOM COUNTY (PARKS & RECREATION)
AND SEDRO-WOOLLEY POLICE DEPARTMENT

THIS AGREEMENT is made and entered into by and between Whatcom County (Parks & Recreation Department) ("County") and Sedro-Woolley Police Department (Contracting Entity), collectively referred hereinafter as the "Parties." This Agreement is entered into pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act. The Department or Party contracting with Whatcom County shall hereinafter be identified by name or as the "Contracting Entity."

1. PURPOSE:

For the use by the Contracting Entity of the County's Plantation Rifle Range (Range) located at 5102 Samish Highway, Whatcom County, Washington. The Plantation Rifle Range has two separate shooting ranges identified and named as Pistol & Smallbore Rifle Range (Smallbore) and High Power Rifle & Trap Range (High Power). These facilities are to be used by the Contracting Entity in accordance with the use terms as set forth in this Agreement for Law Enforcement training purposes.

The Contracting Entity is contracting with the County for use of the Range for the purpose of the Contracting Entity to provide firearms qualifications, practice or training for commissioned and non-commissioned personnel of the Contracting Entity.

It is understood and agreed by the Parties that the County shall provide no training or supervision at the Facility during the Contracting Entity's exclusive or individual use periods. The County shall provide, upon request by the Contracting Entity's Supervisor or Coordinator, assistance to the individual Supervisor or Coordinator, in familiarizing them with the operations of facilities, equipment, and other infrastructure necessary to facilitate the Contracting Entity's use under the terms of this Agreement.

It is understood and agreed by the Parties that the Contracting Entity is a qualified law enforcement agency, or equivalent entity, such that their supervisor and/or participants are experienced with and trained in the use of firearms and firearm safety. The County shall have no duty to train or assist the Contracting Entity with firearm safety or rifle range safety.

It is understood and agreed by the Parties that during the exclusive use of the Range by the Contracting Entity, there will be no County staff or agents present or provided at the Range, unless a County staff member is present doing other tasks or duties unrelated to the Contracting Entity's use of the Range. The County is not providing any County employees, staff or assistance, oversight or supervision to the Contracting Entity during their use at the Range.

2. RESPONSIBILITIES

WHATCOM COUNTY PARKS & RECREATION DEPARTMENT RESPONSIBILITIES:

The Parks and Recreation Department shall make available to the Contracting Entity the Plantation Rifle Range at such time and under such conditions as are hereinafter set forth.

CONTRACTING ENTITY RESPONSIBILITIES:

- A. The Contracting Entity shall provide all targets, target standards, ammunition and other materials necessary for the use of the Range. All ammunition used on the Indoor Range will be restricted to

a round utilizing a Total Metal Jacket (TMJ) or Jacketed Hollow Point (JHP) bullet having muzzle energy not greater than 400 foot pounds.

- B. Schedule, in advance, with Whatcom County's representative exclusive use days for the Smallbore and High Power ranges.
- C. Assume full responsibility for safety of the entire Range during any period of exclusive use by the Contracting Entity.
- D. Be responsible for the conduct of members of the Contracting Entity while on the Range during exclusive use periods. Should any member violate the rules of the Range or safety rules, such member shall be immediately prohibited from further use of the Range that day and may not be allowed further use until such time the member is appropriately trained and the Contracting Entity feels assured that no further Range or safety rules will be violated by that member.
- E. Designate, and report to the County's Representative the name of an individual who shall act as a qualified supervisor and coordinator of all Contracting Entity's activities at the Range. This individual shall be the person with whom the County's Representative will work in connection with day-to-day matters of Range use, and who will be in direct charge during actual Range use.
- F. There shall be a Contracting Entity supervisor or coordinator and a Contracting Entity Range Safety Officer present at the Range at all times during exclusive use. The supervisor or coordinator shall terminate use of the range if any danger or safety risk is present at the facility and provide immediate electronic or verbal notice to the County, followed by a written notice to the County within 24 hours detailing the danger or safety risk. The Range Safety Officer shall be responsible for supervising safe shooting activities, monitor and enforce safety and range rules, and range operations during times of exclusive use. (The Range Safety Officer may also function as the supervisor or coordinator.)
- G. A written report of all accidents, damage or injury that occurs shall be provided immediately or no later than 24 hours to the County. The written report shall provide sufficient details of the incident, including the date, time, circumstances and nature of injury or damage, and the name of the injured party, witnesses and Contracting Entity's Supervisor present at the time of the incident. The written report shall be submitted to Whatcom County Parks and Recreation Department Office or to the Range County personnel.
- H. Check out the Range key from the County's Representative. The Range key provides limited access to Range facilities. Access shall include: entry gate access, access to approved facilities, and public spaces. The Contracting Entity shall maintain control of the issued key at all times, including keeping the key secured when not in use and maintaining a log of any employees provided use of the key. The Contracting Entity shall not provide access to the key for vendors or contractors for any purpose. Any keys provided to the Contracting Entity may not be copied or duplicated.
- I. The Contracting Entity shall maintain a sign-in log for each exclusive use day. The log shall include, at a minimum, the signature of the Contracting Entity supervisor or coordinator, the Range Safety Officer, their phone numbers and all employees participating in Contracting Entity activities. The sign-in logs shall be provided to the County's Representative at least quarterly.
- J. The Contracting Entity and its participants must comply with all Federal, State and local laws.

- K. All litter, trash, or debris left by the Contracting Entity shall be picked up and disposed of in appropriate receptacles provided at the Range.
- L. No minors are allowed to be present at the Range during exclusive use.
- M. The Contracting Entity shall pay all costs associated with damage, destruction, or loss to the County at the Facilities as a result of the Contracting Entity's use and/or presence at the Range.
- N. Contracting entity shall ensure its members are in compliance with Whatcom County Health Department COVID-19 requirements at the time of use.

USE OF THE RANGE

- A. The Contracting Entity shall have exclusive use of the Range in the year 2022 for Ten (10) eight (8) hour days. The Contracting Entity will have the option of splitting an 8-hour day into two 4-hour days. All dates and times shall be determined by mutual agreement by the Contracting Entity and Whatcom County Parks and Recreation Department representatives.

This exclusive use shall be by mutual agreement of both the Contracting Entity and the Whatcom County Parks and Recreation Department. Use dates scheduled, that are not canceled 48 hours in advance will be charged against the Contracting Entity's contract.

- B. Individual members of the Contracting Entity, who are counted as officers upon presentation of their Contracting Entity Law Enforcement identification card, shall be entitled to use of Range facilities without payment of regular fees. Provided, such use shall:
 - Be during periods when the Range is normally scheduled to be opened to the general public;
 - Be subject to all rules and conditions of use by the general public except for payment of fees;
 - Not interfere with normal, customary use of the Range;
 - The use is for practice and training as an officer.
 - Does not include supplies or Trap Range use.
 - Rights or use under this Agreement is not extended to Contracting Entity's family or friends.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from January 1, 2022 through December 31, 2022.

4. MANNER OF FINANCING:

- A. Contracting Entity shall pay a fee of Six Thousand, Six Hundred Sixty-Nine Dollars and Seventy-One Cents (\$6,669.71).

10 Days	@ \$571.88 per day	= \$5,718.80
23 Officers	@ \$18.38 per officer	= \$422.74
	Subtotal	= \$6,141.54
	<u>Sales Tax</u>	<u>= \$528.17</u>
	Total	= \$6,669.71

- B. The payment shall be due on or before sixty days of signed contract. Any additional days may be scheduled by mutual agreement of both parties. Payment for any use beyond the annual ten (10) day period shall be due within 30 days from approved contract.

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The Contracting Entity's representative shall be:

Officer Derick Lowe
Phone Number: 360-661-6241
Email: dlowe@ci.sedro-woolley.wa.us

5.2 Whatcom County's representative shall be:

Mike McKenzie
Regional Park Supervisor
Phone Number: 360-296-6083
Email: MMckenzi@co.whatcom.wa.us

6. TREATMENT OF ASSETS AND PROPERTY:

No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION:

To the fullest extent permitted by law, the Contracting Entity 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 act or omission, negligent or otherwise, of the Contracting Entity, its employees, agents, participants or volunteers or Contracting Entity's subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with Contracting Entity's activity and use under this Agreement; or 3) are based upon the Contracting Entity or their participants, employees, agents, or volunteers, or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Contracting Entity shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the County.

This indemnification obligation of the Contracting Entity 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 Contracting Entity hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Contracting Entity are a material inducement to County to enter into this Agreement, and have been mutually negotiated by the parties.

It is further provided that no liability shall attach to the County be reason of entering into this Agreement, except as expressly provided herein. The parties specifically agree that this Agreement is for the benefit of the parties only and this Agreement 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 Contracting Entity's indemnity obligations under this Agreement.

The Contracting Entity agrees all Contracting Entity's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

In the event the Contracting Entity enters into subcontracts to the extent allowed under this Agreement, the Contracting Entity's subcontractors shall indemnify the County on a basis equal to or exceeding Contracting Entity's indemnity obligations to the County. All insurance shall be per occurrence.

8. INSURANCE:

Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party.

9. TERMINATION:

Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

10. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:

The Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

11. EXTENSION:

This Agreement be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three (3) years.

12. SEVERABILITY:

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

13. ENTIRE AGREEMENT:

This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this 31 day of MARCH, 2022.

APPROVED:


Contracting Entity

Dated this 31 day of MARCH, 2022

Sedro-Woolley Police DEPT.

Contracting Entity Signatory Name, Title

APPROVED AS TO FORM:


Contracting Entity, Attorney
CHIEF of Police

WHATCOM COUNTY

Satpal Sidhu, County Executive

STATE OF WASHINGTON) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 20__, before me personally appeared Satpal Sidhu, to me known to be the County Executive of WHATCOM COUNTY and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this _____ day of _____, 20__.

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission expires: _____

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

APPROVED AS TO FORM:

Approved by Email / BW
County Deputy Prosecuting Attorney



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-250

File ID:	AB2022-250	Version:	1	Status:	Agenda Ready
File Created:	04/18/2022	Entered by:	JThomson@co.whatcom.wa.us		
Department:	Health Department	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: ABeck@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Northwest Youth Services to provide funding for supplemental pay premiums to eligible staff providing direct services to clients, in an amount not to exceed \$140,612

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Contract



MEMORANDUM

TO: Satpal Sidhu, County Executive

FROM: Erika Lautenbach, Director

RE: Northwest Youth Services – Supplemental Pay Premium Contract

DATE: April 18, 2022

Attached is a contract between Whatcom County and Northwest Youth Services for your review and signature.

- **Background and Purpose**

This contract provides funding for supplemental pay premiums to staff providing direct services. This is a non-competitive contracting situation wherein the County will reimburse supplemental pay premiums in two rounds, up to \$1,000 each round. To be eligible, employees must work 80 or more hours in direct service in the 30 days prior to the end of the premium period. The premiums are funded with dedicated grant funding available from Washington State Department of Commerce Emergency Solutions COVID-19 (ESG-CV) Grant and County American Rescue Plan Act (ARPA) funds. The supplemental pay premiums are being provided in response to ongoing challenges and difficult work environments for employees in the professional housing and homeless services field.

- **Funding Amount and Source**

Funding for this contract, in an amount not to exceed \$140,612, is provided by local document recording fees, the Washington State Department of Commerce ESG-CV Grant (CFDA 14.231) and County ARPA (CFDA 21.027) funds. These funds are included in the 2022 budget. Council approval is required as funding exceeds \$40,000.

Please contact Ann Beck, Human Services Manager at 360-778-6055 (ABeck@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us) if you have any questions or concerns regarding this request.



WHATCOM COUNTY CONTRACT INFORMATION SHEET				Whatcom County Contract No.	
Originating Department:			85 Health		
Division/Program: (i.e. Dept. Division and Program)			8550 Human Services / 855040 Housing Program		
Contract or Grant Administrator:			Christopher D'Onofrio		
Contractor's / Agency Name:			Northwest Youth Services		
Is this a New Contract?		If not, is this an Amendment or Renewal to an Existing Contract?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:			
Does contract require Council Approval?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)			
Is this a grant agreement?		If yes, grantor agency contract number(s):		CFDA#:	14.231 / 21.027
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>				
Is this contract grant funded?		If yes, Whatcom County grant contract number(s):		202008014 / ARPA	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Is this contract the result of a RFP or Bid process?		Contract Cost Center:		122200 / 122800 / 1388502	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):			
Is this agreement excluded from E-Verify?		No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>		
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 exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when:			
\$	140,612	1. Exercising an option contained in a contract previously approved by the council.			
This Amendment Amount:		2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.			
\$		3. Bid or award is for supplies.			
Total Amended Amount:		4. Equipment is included in Exhibit "B" of the Budget Ordinance			
\$		5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.			
Summary of Scope: This contract provides funding for supplemental pay premiums for staff providing direct services.					
Term of Contract:		5 Months		Expiration Date: 9/15/2022	
Contract Routing:	1. Prepared by:		JT		Date: 04/07/2022
	2. Health Budget Approval:		JG		Date: 04/11/2022
	3. Attorney signoff:				Date:
	4. AS Finance reviewed:		Bbennett		Date: 04/18/2022
	5. IT reviewed (if IT related):				Date:
	6. Contractor approved:				Date:
	7. Submitted to Exec.:				Date:
	8. Council approved (if necessary):		AB2022-250		Date:
	9. Executive signed:				Date:
	10. Original to Council:				Date:

CONTRACT FOR SERVICES
Between Whatcom County and Northwest Youth Services

Northwest Youth Services, 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), p. 14,
Exhibit B (Compensation), p. 15,
Exhibit C (Certificate of Insurance), p. 16,
Exhibit D (Special Terms and Conditions – Commerce ESG-CV), pp. 17 to 21,
Exhibit E (Subaward Information), p. 22,
Exhibit F (American Rescue Plan Act Subrecipient Agreement), pp. 23 to 27,
Exhibit G (Subaward Information), p. 28,
Exhibit H (ARPA Eligibility Memo), pp. 29 to 31,
Exhibit I (2022 Whatcom County Health Department Supplemental Pay Policy Guidelines).

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 15th day of April, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 15th day of September, 2022.

The general purpose or objective of this Agreement is to provide premium supplemental premium pay for staff providing direct services 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 \$140,612. 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 on:

CONTRACTOR:

Northwest Youth Services
108 Prospect Street
Bellingham, WA 98225

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

Jason McGill, Executive Director

WHATCOM COUNTY:
Recommended for Approval:

Ann Beck, Human Services Manager	Date
----------------------------------	------

Erika Lautenbach, Director	Date
----------------------------	------

Approved as to form:

Royce Buckingham, Senior Civil Deputy Prosecutor	Date
--	------

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive Date

CONTRACTOR INFORMATION:

Northwest Youth Services
108 Prospect Street
Bellingham, WA 98225
jasonm@nwys.org

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension:

The duration 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 (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

36.1 Waiver of Noncompetition:

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor

further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Christopher D'Onofrio, Program Specialist
Whatcom County Health Department

37.2 Notice:

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

Whatcom County Health Department
Christopher D'Onofrio, Program Specialist
509 Girard Street
Bellingham, WA 98225
360-778-6049
CDonofri@co.whatcom.wa.us.

Northwest Youth Services
Jason McGill, Executive Director
108 Prospect Street
Bellingham, WA 98225
360-734-9862
jasonm@nwys.org

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

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

The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Contractor represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor will review and enroll in the E-Verify program through this website: www.uscis.gov

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

40.1 Modifications:

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

40.2 Contractor Commitments, Warranties and Representations:

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

41.1 Severability:

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

41.2 Waiver:

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

42.1 Disputes:

a. General:

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

b. Notice of Potential Claims:

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

c. Detailed Claim:

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

d. Arbitration:

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

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

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

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

I. Background

Northwest Youth Services serves young people ages 13-24, who are experiencing homelessness in Whatcom County. To offset prolonged challenges and difficult work environments for employees, Whatcom County will reimburse supplemental pay premiums for staff providing direct services. These reimbursements will be made in accordance with supplemental pay requirements of the Washington State Department of Commerce Emergency Solutions Grant – COVID-19 and the American Rescue Plan Act.

II. Statement of Work

The Contractor will be reimbursed for supplemental pay premiums provided to staff providing direct services, per the Guidelines outlined in Exhibit I – 2022 Whatcom County Supplemental Pay Policy Guidelines. Staff who support street outreach, emergency shelter (including day centers), rapid rehousing and rapid rehousing projects and as outlined in their job descriptions, are required to provide direct service to clients or the general public are eligible for these supplemental pay premiums, as follows:

- A. Each eligible employee will receive \$1,000 gross pay through two rounds of supplemental pay premiums.
 - 1. The first round of pay premiums are available to all eligible staff employed on April 15, 2022, have a hire date on or before March 1, 2022 and worked 80 hours within the 30 days prior to the end date of the pay premium period.
 - 2. The second round of supplemental pay premiums are available to all eligible staff employed on September 1, 2022, have a hire date that is on or before August 1, 2022 and worked 80 hours within the 30 days prior to the end date of the pay premium period.
- B. The Contractor will develop written policies prior to issuing supplemental pay premiums to staff which include:
 - 1. Supplemental pay premium amount
 - 2. Eligibility timing for supplemental pay premium (date of initial eligibility for first round and date of eligibility for second round)
 - 3. Eligible job titles
 - a. FLSA non-exempt employees earning less than \$103,000 annually
 - b. Exempt employees earning less than \$103,000 annually and with a written justification
 - 4. Recordkeeping requirements which include:
 - a. Maintaining timesheets that demonstrate employment and hours worked for each period of eligibility
 - b. Job descriptions
 - c. Current, written supplemental pay premium policies.

- C. The contractor will comply with relevant Washington State 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/>

EXHIBIT "B"
(COMPENSATION)

- I. Budget and Source of Funding:** The source of funding for this contract, in an amount not to exceed \$140,612, is local document recording fees, the Washington State Department of Commerce Emergency Solutions COVID-19 (ESG-CV) Grant (CFDA 14.231), County American Rescue Plan Act (ARPA) Funds (CFDA 21.027). COMMERCE and the State of Washington are not liable for claims or damages arising from Subcontractor's performance of this contract. The budget for this contract is as follows:

Cost Description	Documents Required Each Invoice	Budget
ESG-CV Eligible 2022 Supplemental Pay (April-September)	<ul style="list-style-type: none">• Payroll register for pay period(s) that the supplemental pay premium was paid out.• Timesheets for eligible staff for the 30 day period(s) prior to the end of the premium pay periods.	\$81,930
ARPA Eligible 2022 Supplemental Pay (April-September)		\$45,900
ESG-CV Indirect @ 7%		\$5,735
Document Recording Fee Funded Indirect @ 3% (to supplement ESG-CV limit)		\$2,457
ARPA Indirect @ 10%		\$4,590
TOTAL		\$140,612

*In no instance shall the indirect exceed the rates indicated above.

II. Invoicing

1. The Contractor shall submit invoices to (include contract/PO #) HL-BusinessOffice@co.whatcom.wa.us.
2. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Invoices submitted for payment must include the items identified in the table above. **Final invoices must be submitted no later than September 30, 2022.**
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 "C"
(CERTIFICATE OF INSURANCE)

“Exhibit D”
(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.

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 E”
ESG-CV SUBAWARD INFORMATION**

	Item Description	Contract Information
1	Subrecipient Name (Exactly as listed in DUNS): www.SAM.gov	Northwest Youth Services
2	Subrecipient DUNS Number: www.SAM.gov	78172241
3	Federal Award Identification Number (FAIN):	E-20-DW-53-0001
4	Federal Award Date (from Federal contract)	10/01/2020 – 09/30/2022
5	Start and End Date of the contract:	04/15/2022 – 09/30/2022
6	Amount of Federal Funds Obligated by this action:	\$3,044,770
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (current and past obligations):	\$87,665
8	Total Amount of the Federal Award <u>committed</u> to the subrecipient through Whatcom County:	\$88,665
9	Project description from Federal Award:	To assist people to quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness and to address the needs of people in emergency shelters and unsheltered situations.
10	Name of the Federal awarding agency:	U.S. Department of Housing & Urban Development
11	Name of the pass-through entity/entities:	WA State Department of Commerce / Whatcom County
12	Contact information for awarding official- (Name of County project coordinator)	Christopher D’Onofrio
13	Contact information for awarding official- General Contact email or phone number:	360-778-6049 CDonofri@co.whatcom.wa.us
14	CFDA Number	14.231
15	CFDA Name Program Name	Emergency Solutions Grant Program
16	Is the award Research and Development?	No
17	Indirect Cost Rate per the Federal Award	Not specified
18	Federal requirements imposed on the subrecipient by Whatcom County:	See Exhibit D
19	Additional requirements imposed by Whatcom County to meet its own responsibilities to the awarding agency:	See Exhibit A
20	Indirect Rate: Subrecipient approved rate or de minimis	7%
21	Access to subrecipient’s accounting records and financial statements as needed.	Yes
22	Closeout Requirements	Yes

“Exhibit F”
American Rescue Plan Act Funding
Subrecipient Agreement

The Contractor is considered a subrecipient for purposes of this contract and will hereafter be referred to as Subrecipient for this portion of the contract. Source of funding is Coronavirus State and Local Fiscal Recovery Funds, CFDA No. 21.027

1. COMPLIANCE WITH LAWS

- A. The Subrecipient and the County shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to United States Laws, Regulations and Circulars (Federal).
- B. The Subrecipient shall comply with the American Rescue Plan Act of 2021, PL 117-2, Section 9901 regarding allowable expenditures. (The Subrecipient shall also comply with all federal guidance regarding the Coronavirus State and Local Fiscal Recovery funds, including the Final Rule at 31 CFR Part 35 and U.S. Treasury FAQs.
- C. The Subrecipient shall comply with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- D. Other federal regulations applicable to this award include:
 - (i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - (ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R., Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - (iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 80 (including the requirement to include a term or condition in all lower tier covered transaction (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - (iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - (v) Governmentwide Requirement for Drug-Free Workplace, 31 CFR Part 20.
 - (vi) New Restrictions on Lobbying, 31 CFR Part 21.
 - (vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 USC§§ 4601-4655) and implementing regulations
 - (viii) Generally applicable federal environmental laws and regulations.
- E. The Subrecipient shall comply with Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39.
- F. The Subrecipient shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of Services under this Agreement. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - (i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the grounds of race, color, or national origin under program or activities receiving federal financial assistance.
 - (ii) The Fair Housing Act, Title VII-IX of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;
 - (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;

- (iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - (v) The American with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities and services provided or made available by state and local governments or instrumentalities or agencies thereto.
 - (vi) The Subrecipient shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this Agreement.
- G. Subrecipient must disclose in writing to Department of Treasury, or the County, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
 - H. Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented, or personally owned vehicles.
 - I. Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving.
 - J. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- (i) A member of Congress or a representative of a committee of Congress;
- (ii) An Inspector General;
- (iii) The Government Accountability Office;
- (iv) A Treasury employee responsible for contract or grant oversight or management;
- (v) An authorized official of the Department of Justice or other law enforcement agency;
- (vi) A court or grand jury; or
- (vii) A management official or other employee of Subrecipient, contractor or subcontractor who has the responsibility to investigate, discover, or address misconduct.

Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

- K. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federal assisted programs and activities for individuals who, because of national denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
- L. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts program, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067.
- M. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient, Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.

- N. Subrecipient acknowledges and agrees that it must require any contractors, subcontractors, successors, transferees, and assignees to comply with assurances contained in sections J, K, L and M herein-above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

2. ACKNOWLEDGEMENT OF FEDERAL FUNDS

Grant Funds paid out under this Agreement are made available and are subject to Section 603(b) of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021. From and after the effective date of this Agreement, the Subrecipient agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Subrecipient describing programs or projects funded in whole or in part with federal funds under this Agreement, shall contain the following statement(s):

This project was supported, in whole or in part, by American Rescue Plan Act funding awarded to Whatcom County by the U.S. Department of Treasury.

3. REPAYMENT OF FUNDS TO THE COUNTY

- A. The Subrecipient shall return Grant Funds disbursed to it by the County under this Agreement for return by the County to the U.S. Department of the Treasury, upon the occurrence of any of the following events: (a) if overpayments are made by the County; or (b) if an audit of the Services by the U.S. Department of the Treasury, the State, or the County determines that the funds have been expended for purposes not permitted by 42 USC § 803(c)(1), 31 CFR Part 35, U.S. Treasury FAQs, the U.S. Department of the Treasury, the County, state law, or this Agreement. In such a case, the County shall make a written demand upon the Subrecipient for repayment, and the Subrecipient shall be obligated to repay to the County the funds demanded within sixty (60) calendar days of the demand.
- B. No exercise by the County of the right to demand repayment of funds from the Subrecipient shall foreclose the County from making an additional demand for repayment if a return of additional funds is required by the U.S. Department of the Treasury; the County's right to demand repayment from the Subrecipient may be exercised as often as necessary to recoup from the Subrecipient all funds required to be returned by the County to the U.S. Department of the Treasury.
- C. The Subrecipient is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

4. NONDISCRIMINATION AND EQUAL OPPORTUNITY

- A. General Provisions
Subrecipient shall make the facilities available to the public in a manner that assures fair, equal, and non-discriminatory treatment to all persons without regard to race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability. No personnel shall be refused service, be given discriminatory treatment, be denied any privilege, use of facilities, or participation in activities on account of race, creed, color, national origin, sex, honorable discharged veteran or military status, sexual orientation; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability, nor shall any person be required to participate in any religious worship, exercise, or instruction. The funds provided under this Agreement shall not be used to fund religious worship, exercise, or instruction.
- B. Equal Access to Housing Regardless of Sexual Orientation or Gender Identity
Subrecipient shall abide by all provisions of the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, as set forth in 24 CFR, Parts 5 and 570. These provisions ensure that any qualified individual or family is not denied equal access to housing. In addition, the RECIPIENT shall not inquire about the sexual orientation or gender identity of an applicant for, or occupant of, housing assisted under this Agreement.
- C. Housing Preferences
Projects which have committed to limit eligibility or preference to a particular segment of the population may do so only if permitted by Fair Housing Act restrictions.

Any limitation or preference in housing must not violate nondiscrimination provisions in 24 CFR § 92.350. A limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., the Housing Opportunity for Persons with AIDS program under 24 CFR part 574, the Shelter Plus Care program under 24 CFR part 582, the Supportive Housing program under 24 CFR part 583, supportive housing for the elderly or persons with disabilities under 24 CFR part 891), and the limit or preference is tailored to serve that segment of the population.

If the Project does not receive funding from a Federal program that limits eligibility to a particular segment of the population, the Project may have a limitation or preference for persons with disabilities who need services offered at a project only if:

- The limitation or preference is limited to the population of families (including individuals) with disabilities that significantly interfere with their ability to obtain and maintain housing;
- Such families will not be able to obtain or maintain themselves in housing without appropriate supportive services; and
- Such services cannot be provided in a non-segregated setting. The families must not be required to accept the services offered at the project. In advertising the project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

D. **TDD/TTY or Relay Service Required**

Subrecipient agrees to list a TDD/TTY or the Washington Relay telephone number on all of the written policies and documents that they make available to participants, beneficiaries, or employees, including their letterhead, materials used to market programs, and any other public document that lists a telephone number.

5. DOMESTIC PREFERENCES FOR PROCUREMENTS

Domestic Preference for Procurements

As appropriate, and to the extent consistent with the law, the subrecipient should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

6. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

A. *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause –

B. *Prohibitions.*

- i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- ii. Unless an exception in paragraph (c) of this clause applies, the subrecipient and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - d. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

C. *Exceptions.*

- i. This clause does not prohibit subrecipients from providing –
 - a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- ii. By necessary implication and regulation, the prohibitions also do not apply to:

- a. Covered telecommunications equipment or services that:
 - i. Are *not used* as a substantial or essential component of any system; and
 - ii. Are *not used* critical technology of any system.
- b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting Requirement.

- i. In the event the subrecipient identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the subrecipient is notified of such by a subcontractor at any tier or by any other source, the subrecipient shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- ii. The Subrecipient shall report the following information pursuant to paragraph (d)(1) of this clause:
 - a. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - b. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the subrecipient shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. Subcontracts. The Subrecipient shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

7. RECORDS MAINTENANCE

The Subrecipient shall maintain books, records, documents, data and other evidence relating to this contract 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 contract.

The Subrecipient shall maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity.

The Subrecipient shall retain such records for a period of five (5) years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

**“Exhibit G”
ARPA SUBAWARD INFORMATION**

	Item Description	Contract Information
1	Subrecipient Name (Exactly as listed in DUNS): www.SAM.gov	Northwest Youth Services
2	Subrecipient DUNS Number: www.SAM.gov	782172241
3	Federal Award Identification Number (FAIN):	SLFRP1195
4	Federal Award Date (from Federal contract)	05/13/2021
5	Start and End Date of the contract:	03/03/2021 – 12/31/2026
6	Amount of Federal Funds Obligated by this action:	\$44,528,542
7	Total Amount of Federal Funds Obligated to the subrecipient by Whatcom County for this subaward (current and past obligations):	\$50,490
8	Total Amount of the Federal Award <u>committed</u> to the subrecipient through Whatcom County:	\$50,490
9	Project description from Federal Award:	Coronavirus Local Fiscal Recovery
10	Name of the Federal awarding agency:	U.S. Department of the Treasury
11	Name of the pass-through entity/entities:	Whatcom County
12	Contact information for awarding official- (Name of County project coordinator)	Christopher D’Onofrio
13	Contact information for awarding official- General Contact email or phone number:	360-778-6049 CDonofri@co.whatcom.wa.us
14	CFDA Number	21.027
15	CFDA Name Program Name	Coronavirus State and Local Fiscal Recovery Funds
16	Is the award Research and Development?	No
17	Indirect Cost Rate per the Federal Award	Not specified
18	Federal requirements imposed on the subrecipient by Whatcom County:	See Exhibit F
19	Additional requirements imposed by Whatcom County to meet its own responsibilities to the awarding agency:	See Exhibit A
20	Indirect Rate: Subrecipient approved rate or de minimis	10%
21	Access to subrecipient’s accounting records and financial statements as needed.	Yes
22	Closeout Requirements	Yes

Exhibit H



MEMORANDUM TO FILE

FROM: ANN BECK, WHATCOM COUNTY HEALTH DEPARTMENT HUMAN SERVICES MANAGER
DATE: April 4, 2022
RE: AMERICAN RECOVERY PLAN ACT - DETERMINATION OF ELIGIBLE USE for HOMELESS HOUSING SYSTEM STAFF SUPPLEMENTAL PAY PREMIUMS

Section 1: Eligible Use

The Department of the Treasury Final Rule implementing the Coronavirus State Fiscal Recovery Fund and the Local Fiscal Recovery Fund (SLFRF) established under the American Rescue Plan, allows funds to be for the purposes of providing premium pay for essential workers. Specifically, in the *Eligible Uses* section, SLFRF's final rule states that "As Americans return to work and governments relax certain rules, essential workers will continue to bear the brunt of the risk of maintain the ongoing operation of vital facilities and services. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities. Premium pay is designed to address the disparity between the critical services provided by and the risks taken by essential workers and the relatively low compensation they tend to receive." The Legal and Finance Departments concur that staff's proposed program elements are eligible uses of County ARPA grant funds. The proposed use of funds is summarized in Section 3 of this memo.

Federal Regulations

Federal Register Vol 87, No 18, January 27, 2022 Rules & Regulations – See Page 4397-98

<https://www.govinfo.gov/content/pkg/FR-2022-01-27/pdf/2022-00292.pdf>

On Page 4397 the final rule defines the framework for those eligible for premium pay:

*The interim final rule established a three-part framework for recipients seeking to use SLFRF funds for premium pay. First, to receive premium pay one must be an **eligible worker**. Second, an **eligible worker must also perform essential work**. Finally, **premium pay must respond to workers performing essential work during the COVID-19 public health emergency**.*

On page 4397, the ARPA defines "eligible workers" as:

those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each . . . [government] may designate as critical to protect the health and wellbeing of [its] residents.

On page 4398, the documented Rules and Regulations clarifies the Chief Executive's discretion to designate additional sectors as critical:

"While all such public employees are "eligible workers" and the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical, in order to receive premium pay, these workers must still meet the other premium pay requirements (e.g., performing essential work). Treasury recognizes that the list of "essential critical infrastructure sectors" includes both occupations and sectors."

On page 4398 the Rules and Regulations defines "Essential Work":



"The interim final rule defined "essential work" as work that (1) is not performed while teleworking from a residence and (2) involves either (i) regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work or (ii) regular physical handling of items that were handled by, or are to be handled by, patients, the public, or coworkers of the individual that is performing the work. Treasury adopted this definition of essential work to ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work during a pandemic."

U.S. Department of Housing and Urban Development Notice CPD-20-08

(<https://www.hud.gov/sites/dfiles/OCHCO/documents/20-08cpdn.pdf>)

This notice, dated September 1, 2020, applies to all Emergency Solutions Grant funding issued through the Office of Community Planning and Development. Page 13 begins with an overview of hazard pay:

"Hazard Pay. As permitted by the CARES Act, funds may be used to pay hazard pay for recipient or subrecipient-staff working directly to prevent, prepare for, and respond to coronavirus among persons who are homeless or at risk of homelessness. Examples of recipient or subrecipient staff working directly in support of coronavirus response include emergency shelter intake staff, street outreach teams, emergency shelter maintenance staff, emergency shelter security staff, staff providing essential services (e.g., outpatient health or mental health, housing navigators), and staff in proximity to persons with coronavirus or working in locations with a high likelihood of contracting coronavirus."

Section 2: Summary of Impacted Industry

The workforce that provides direct services to people who are experiencing or are at-risk of homelessness was compelled to rapidly expand in 2020 to accommodate an unprecedented surge in demand for housing stability support. These staff members include individuals working in projects that focus on street outreach, emergency shelters, subsidized rental housing projects, those working to ensure stability for formerly homeless individuals in permanent supportive housing projects, and the intake and assessment personnel who serve as an access point for people seeking a variety of housing-related services. Because this work relies on face-to-face engagement with a vulnerable population and cannot shift their work to digital platforms, the heightened risk of contracting COVID and hardships brought about by the pandemic's impact on this industry is widespread and enduring.

Section 3: Summary of Proposed Uses

The proposed use is primarily focused on stabilizing the workforce within the housing services sector that has been under significant strain since March of 2020. In addition, fully staffed service provider agencies will be better situated to deliver high-quality services that positively impact clients who receive those services and by extension the community writ large.

Agencies will be funded to provide two payments of \$1,000 to all direct-service staff (one in April and one in September). Funds would support partner agencies to support their staff who provide face-to-face support services in the housing services industry. This pair of payments will be provided to respond to ongoing challenges and difficult work environments for employees in the professional housing and homeless services field.

Exhibit I

WHATCOM COUNTY HEALTH DEPARTMENT



ERIKA LAUTENBACH, MPH, DIRECTOR
AMY HARLEY, MD, MPH, CO-HEALTH OFFICER
GREG THOMPSON, MD, MPH, CO-HEALTH OFFICER

2022 Supplemental Pay Policies

A. Duration

1. The first round of supplemental pay premiums is available for all eligible staff employed by each participating Agency on April 15, 2022, have a hire date on or before March 1, 2022, and worked 80 hours within the 30 days prior to the end of the pay premium period.
2. The second round of supplemental pay premiums is available for eligible staff who are employed on September 1, 2022, have a hire date that is on or before August 1, 2022 and worked 80 hours within the 30 days prior to the end of the pay premium period.
 - o Each agency will have discretion in their choice to include new staff who are hired during the months of April, May, June, and July and meet the above criteria in order to align with internal policies and create equity across departments of their agency.
3. All staff employed for the entirety of the first eligibility period (March 1, 2022 through April 15, 2022) and engaging in the activities described in the section below, will receive supplemental pay premiums in April. All of those staff who maintain eligible employment in job positions that are eligible for supplemental pay premiums will be eligible for the second round of pay premiums in September.

B. Eligibility Based on Job Descriptions

Eligible staff are those who are FLSA non-exempt (or exempt employees with a written justification) who earn less than \$103,000 annually and who support street outreach, emergency shelter (including day centers), rapid rehousing and rapid rehousing projects, and delivery of rental assistance, regardless of the funding source paying for those particular hours if their job duties, as described in their job descriptions, require them to provide direct service to clients or the general public.

C. Amount

Each round of supplemental pay premiums will provide each eligible staff with \$1,000 gross pay.

D. Agency Requirements

In order to implement this program for supplemental pay premiums, an organization must have written policies prior to issuing the funding which include: the supplemental pay premium amount, eligibility timing for the supplemental pay premium (date of initial eligibility for first round and date of eligibility for second round), who is eligible (job titles), and the recordkeeping procedures. This should be reflected in the written pay premium policies, including the accounting basis (cash or accrual) selected for costing each type of pay premium to ensure it is consistently followed by the grantee/subgrantee for specified groupings of employees. Recordkeeping requirements include maintaining timesheets that demonstrate employment at each date of eligibility, job descriptions, and the updated written pay premium policies. These records must be provided in the event of state and/or county audits of these funds.

509 GIRARD STREET
BELLINGHAM, WA 98225-4005
360.778.6000 | FAX
360.778.6001
WHATCOMCOUNTYHEALTH



Whatcom County
HEALTH
Department

1500 NORTH STATE STREET
BELLINGHAM, WA 98225-4551
360.778.6100 | FAX 360.778.6101
WWW.WHATCOMCOUNTY.US/HEALTH



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-103

File ID:	AB2022-103	Version:	1	Status:	Agenda Ready
File Created:	02/03/2022	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Presentation		
Assigned to:	Council Public Works & Health Committee			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: chalka@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Presentation of Phase 1 Report of COVID-19 Pandemic Response Review project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Presentation of Phase 1 Report of COVID-19 Pandemic Repsonse Review project

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Memo



MEMORANDUM

TO: Whatcom County Council
FROM: Council Staff
RE: COVID-19 Pandemic Response Review - Project update
DATE: April 19, 2022

The consultant team working on the COVID-19 Pandemic Response Review project has progressed through the first phase of the project (Data Collection) and will provide an overview of their work and takeaways.

The COVID-19 Pandemic Response Review project was authorized via [Ordinance 2021-045](#) (7/21/2021) and as amended in [Ordinance 2021-064](#) (10/12/2021) and [Ordinance 2022-019](#) (2/22/2022). Council approved a [scope of work](#) for the project on September 28, 2021, and authorized [Contract #202201020](#) on January 11, 2022. The consultant team kicked off the project on January 27, 2022, and refined a project work plan with Council feedback ([AB2022-085](#)), adding a summary of expenses related to the pandemic.

For your reference, the following highlights the project schedule:

July 2021	Ordinance adopted establishing the project
September 2021	Council approves scope and begins procurement of consultant services
December 2021	Consultant team selected
January 2022	Contract authorized with BERK Consulting Project Kick Off Meeting
February 2022	Phase 1: Data Collection Update at Council – Work Plan review
March 2022	Phase 1: Data Collection (continued)
April 2022	Phase 1: Data Collection (continued) Update to Council (4/26)
May 2022	Phase 2: Preliminary Recommendations
June 2022	Phase 2: Preliminary Recommendations (continued) Update to Council (6/21)
July 2022	Phase 3: Final Report Presentation to Council (7/26)

Please contact Cathy Halka, Legislative Analyst, at x5019 with any questions.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-238

File ID:	AB2022-238	Version:	1	Status:	Agenda Ready
File Created:	04/14/2022	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Public Works & Health Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us <<mailto:sdraper@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Discussion of a resolution vacating a portion of Wynn Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The attached resolution vacating a portion of Wynn Road is submitted per RCW 36.87 and WCC 12-20. The County Engineer's report has been prepared and is being submitted in favor of this road vacation. A public hearing will need to be scheduled

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Memo, Resolution, Engineer's Report, Petition, Market Analysis, Assessor Map, Aerial Map



MEMORANDUM

To: The Honorable County Executive Satpal Singh Sidhu and Honorable Members of the County Council

Through: Jon Hutchings, Director

From: Andrew Hester, Real Estate Coordinator AH

Date: April 13, 2022

Re: A Resolution Vacating a Portion of Wynn Road

The attached petition asks for vacation of a portion of Wynn Road.

Based on a Fair Market Valuation (FMV) of surrounding comparable properties, the estimated value of the area to be vacated is approximately \$11,500.00.

Recommended Action

The County Engineer's report has been prepared and is being submitted as in favor of this road vacation. It is recommended that the County Council set a hearing date for the requested vacation request, publish the vacation request and direct County staff to post the appropriate public notices.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.

SPONSORED BY: _____

PROPOSED BY: _____ Public Works _____

INTRODUCTION DATE: _____

RESOLUTION NO. _____

A RESOLUTION VACATING A PORTION OF WYNN ROAD

WHEREAS, on April 6, 2021, Jody and Alan Kennedy (“Applicant”) submitted a petition for the vacation of a portion of Wynn Road lying within the unincorporated area of Whatcom County, accompanied by the penal sum of \$790.00; and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless, the Whatcom County Council may declare by resolution its intention to formally consider vacation; and

WHEREAS, the County Council voted 7-0 on August 10, 2021, to consider this vacation request and directed the County Engineer’s office to report; and

WHEREAS, the County Engineer’s office has reviewed the portion of the street which is a Class B-1 right-of-way, wherein no public expenditures were made or they are non-ascertainable from records, and no part thereof lies in any plat, and in the exercise of his judgment has determined that the public will benefit from said vacation; and

WHEREAS, it is unknown if there are public utilities located within the portion of the right-of-way to be vacated, but an easement for said utilities will be retained by the County, and

WHEREAS, the fair market value has been determined to be \$0.29 per square foot for the approximately 39,600 square feet of Wynn Road Right of Way, making the total value of the area to be vacated \$11,500.00; and

WHEREAS, the County Engineer has reviewed said compensation and determined it to be fair value; and

WHEREAS, the Applicant has met all of the petition requirements, as set forth by Chapter 12.20 Whatcom County Code, and all other applicable laws; and

WHEREAS, the Applicant has six calendar months from the date of the Preliminary Order of Vacation to pay any remaining fees to the Whatcom County Council office, which checks should be made payable to the Whatcom County Treasurer, prior to the vacation becoming effective, including but not limited to the appraised value of the area sought to be vacated; and

WHEREAS, this vacation does not become effective until the fees are paid and the Final Order and Resolution are recorded with the County Auditor;

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to vacate the following described right of way:

That portion of Wynn Road adjacent to Lot 23, and Lot 24, Plat of Alder Grove, recorded in Volume 2 of Plats, Page 91, Section 4, Township 38 North, Range 2 East, W.M as described within Whatcom County Auditor's File number 172865. Situate in Whatcom County, Washington.

SUBJECT TO and/or together with all easements, covenants, restrictions, and/or agreements of record or otherwise; and

SUBJECT TO an easement retained by the County in respect to the vacated portion of right-of-way for the construction, repair, and maintenance of any and all public utilities and services, now located on or in the vacated portion.

BE IT FURTHER RESOLVED that upon Applicants' completion of payment for the property and of all other fees, a Final Order of Vacation shall be prepared by Council Staff, signed by the appropriate parties, and recorded with the County Auditor; and

BE IT FURTHER RESOLVED that if the conditions set forth above are not fulfilled within six months from the date of the passage of this Resolution, the Preliminary Order of Vacation which is hereby authorized shall be withdrawn, and the right-of-way shall not be deemed to have been vacated.

APPROVED this _____ day of _____, 2022

ATTEST:
WASHINGTON

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY,

Dana Brown-Davis, County Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

Christopher Quinn
Civil Deputy Prosecutor
(authorized via email 4/13/2022)

REPORT OF THE COUNTY ENGINEER

(Whatcom County Code 12.20.050)

IN THE MATTER OF THE VACATION OF A COUNTY ROAD

Portion of Wynn Road adjacent to Lot 23 and Lot 24 Plat of Alder Grove

PETITIONED BY: Jody and Alan Kennedy et. al.

I, the undersigned County Engineer of Whatcom County, State of Washington, being duly directed by the Whatcom County Council to examine and report on County Road

Portion of Wynn Road adjacent to Lot 23 and Lot 24 Plat of Alder Grove, proposed for vacation by the petition of: Jody and Alan Kennedy, et. al.

did examine said road and report as follows:

IN FAVOR X

NOT IN FAVOR

Said road should be vacated.

Said road should not be vacated.

Compensation amount (12.20.050 B)
39,600 sq. ft. +- @ \$0.29/sq. ft. = \$11,500

Said road is now in use as a County road. 1.
It will be advisable to preserve this road.
The public will not be benefited by this vacation.

Classification (12.20.050 C[6])

Class A		Public expenditures made
Class B	X	No public expenditures made or non-ascertainable from records
Class 1	X	No part thereof lies in any plat
Class 2		Part or all lies within a platted subdivision
Class 3		Did not remain unopened for public use for five or more years after the order made or authority granted for opening it.
Class 4		Remained unopened for public use for five or more years after the order made or authority granted for opening it.
Class 5		Is contained within that portion of a plat which is to be replatted
Class 6		Abandoned in fact due to relocation of right-of-way
Class 7		Informalities exist in the records of title which are construed to invalidate and divest the public of any right, title, or interest in the right-of-way.

The public will be benefited by this vacation. yes X no

James P. Karcher
James P. Karcher, P.E.

Whatcom County Engineer

4-13-2022
Date

BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS

South End of Wynn Rd. at Marietta Ave.

Petitioned for by:

Jody and Alan Kennedy
et.al.

PETITION FOR VACATION
OF PLATTED ROAD

(RCW 58.17 AND 36.87)

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the undersigned and those signing attached petition, which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.
2. The road sought to be vacated is legally described as follows:
"That portion of Wynn Road adjacent to Lot 23, and Lot 24, Plat of Alder Grove, recorded in Volume 2 of Plats, Page 91, Section 4, Township 38 North, Range 2 East, W.M. Situate in Whatcom County, Washington."
3. The pertinent facts in support of this petition are: See attached, Exhibit (A)
4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment.
5. Petitioners will pay all costs and expenses incurred by the Count in examination, report, notice and proceedings pertaining to this petition.
6. A bond in the penal sum of \$790.00, payable to Whatcom County Treasurer, accompanies this petition.
7. The application fee accompanies this petition.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Alan J Kennedy 360-303-8209

alan@dentalparts.com

Signed this 6th day of April, 20 21.

Page 1 of 2

EXHIBIT (A)

Petition for Vacation of Platted Road
Whatcom County
Contact - Alan Kennedy

- 1) This section of road terminates in wetlands and has no prospect of future use.
- 2) This section of road has served as a late night rendezvous for nefarious individuals who congregate there in vehicles because it is a quiet corner away from the eyes of the law. Vacation would allow us to better light and maintain it as well as fence it off to vehicles.
- 3) This section of road has a history of vehicles missing the corner and driving into it. Vacation would remove the county from any future liability.
- 4) This section of road has been used as a dumping ground with no local enforcement (Reference photo below). Vacating it would allow us to maintain a visible presence and better discourage roadside dumping.



WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Alan Kennedy 3802044700320000

Steve Guyer 3802044340480000

PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

Bob Gallagher 3802044180900000

Gordon Lavigueure 3802044251700000

Clarke Lavigueure 3802043761690000

360-325-3763

Mike Kanda 3802044631240000

Edmund Bereal Jr 3802043020350000

Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2 of 2

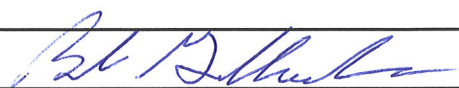
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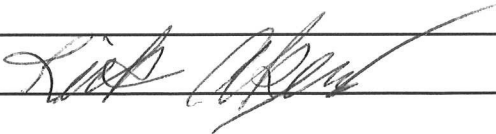
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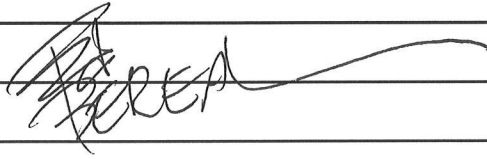
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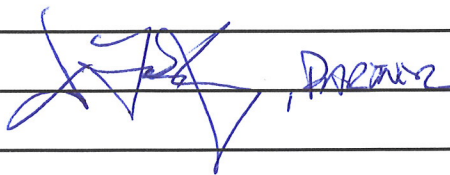
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Page 2 of 2



COMPARATIVE MARKET ANALYSIS – HORTON ROAD VACATION PETITION

PETITIONER: Jody and Alan Kennedy et. al.

PROPERTY LOCATION: Wynn Road Right of Way adjacent to Lot 23 and Lot 24 Plat of Alder Grove

OWNER NAME: Whatcom County

CURRENT USE: Vacant (unopened right-of-way)

AREA ZONING: Light Impact Industrial (LII)

BACKGROUND:

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the City of Bellingham et. al. are petitioning the County to vacate an area of approximately 39,600 square feet, more or less, consisting of the unopened right-of-way of Wynn Road.

SALES RELIED ON:

Three comparable land sales were used to prepare this market evaluation of the subject property and they sold between May 2021 to September 2021. Sale prices ranged from \$0.24 to \$0.76 per square foot.

Comparable #1 is located at 4518 Rural Avenue, approximately 3,000 feet west of the subject property. It is approximately 10.17 acres and has a 2 bedroom manufactured home on it. It sold on September 20, 2021 for \$450,000 with the land contributing approximately 75% of the value of the property or \$0.76 per square foot. The property is zoned "R5A".

Comparable #2 is located at 4167 Jones Lane, approximately 5,600 feet southwest of the subject property. It is approximately 3.71 acres and is vacant land. It sold on May 25, 2021 for \$120,000 or \$0.74 per square foot. The property is zoned "R5A".

Comparable #3 is located at 1509 Waldron Road, approximately 4,400 feet northeast of the subject property and is vacant land. It is approximately 9.54 acres. It sold on July 21, 2021 for \$100,000 or \$0.24 per square foot. The property is zoned "LII".



Averaging those three sales together arrives at \$0.58 per square foot. However, due to the topography and condition of the property and the likely presence of wetlands an adjustment is necessary to establish an estimated Fair Market Value (FMV). It is estimated that the subject property should be valued at 50% of \$0.58 per square foot value, arriving at an estimated FMV of \$0.29 per square foot.

RECOMMENDED COMPENSATION TO COUNTY for 39,600 square feet X \$0.29 per square foot = **\$11,500.00 (rounded)**

Prepared By: _____

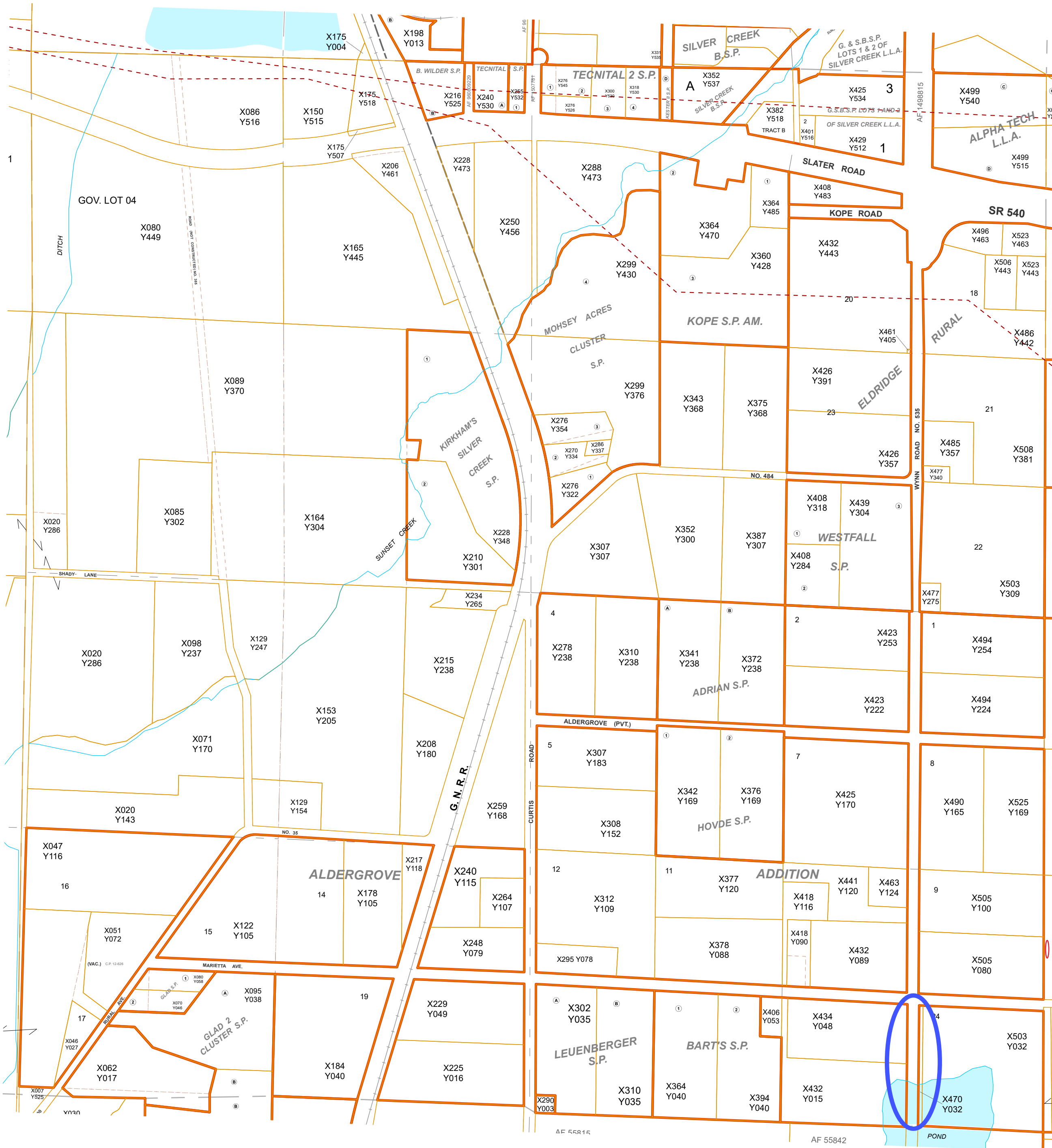
Andrew Hester, Real Estate Coordinator
Whatcom County Public Works

Date: _____

3-28-22

This market analysis does not constitute an appraisal as defined by USPAP.

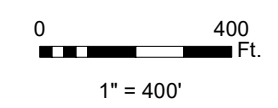
Need to confirm this doesn't violate State law body of water




TOWNSHIP:
38
RANGE:
02
SECTION:
04
MAP NO.:
01

KEY MAP:

32	33	34
05	04	03
08	09	10



- Tax Parcels
- Plats
- Lots
- Section Lines
- Qtr. Section Lines
- City Limits
- Annexations
- Railroads
- Pipelines
- Waterlines
- Waterbodies*

 **Whatcom County**
Assessor's Office
Mar. 29, 2021

This map is for assistance in property location and not guaranteed for accurate measurements.

Geographic Tax Parcel Numbers (GID) are a 16-digit number derived from a combination of the Township, Range and Section, plus the XY coordinates of the theoretical center of the parcel, plus four trailing zeroes. The trailing zeroes are used where an auxiliary tax parcel exists at the same location as the primary parcel, such as, a condo unit or, a mobile home.

*Waterbodies provided for reference only; has not been verified by Assessor
For information on reading maps visit our website: whatcomcounty.us/177/Assessor



373



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-159

File ID:	AB2022-159	Version:	1	Status:	Agenda Ready
File Created:	03/04/2022	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Criminal Justice and Public Safety Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: chalka@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion and update on the progress and next steps for the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion and update on the progress and next steps for the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-256

File ID:	AB2022-256	Version:	1	Status:	Agenda Ready
File Created:	04/19/2022	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Resolution		
Assigned to:	Council Criminal Justice and Public Safety Committee	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: chalka@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution amending the membership of the Stakeholder Advisory Committee for the Justice Project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Resolution amending the membership of the Stakeholder Advisory Committee (SAC) for the Justice Project (Public Health, Safety, and Justice Facility Needs Assessment)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
-------	--------------	---------	----------

Attachments: Proposed Resolution, Proposed Resolution - tracked changes

RESOLUTION NO. _____

**AMENDING THE MEMBERSHIP OF THE
STAKEHOLDER ADVISORY COMMITTEE (SAC) FOR THE JUSTICE PROJECT
(PUBLIC HEALTH, SAFETY, AND JUSTICE FACILITY NEEDS ASSESSMENT)**

WHEREAS, the Whatcom County Council approved Resolution 2019-036 on August 7, 2019, adopting a statement of public health, safety, and justice facility planning principles for Whatcom County; and

WHEREAS, on September 10, 2019, the Whatcom County Council Criminal Justice and Public Safety Committee discussed next steps for the Whatcom County Public Health, Safety, and Justice Initiative, including contracting for professional services to complete a needs assessment; and

WHEREAS, Whatcom County Council adopted Resolution 2019-063 on December 3, 2019, establishing a Stakeholder Advisory Committee for the Public Health, Safety and Justice Facility Needs Assessment for the purpose of guiding the development of the needs assessment and serving as liaisons to the community; and

WHEREAS, Whatcom County Council Adopted Resolution 2020-009 on February 11, 2020, amending the membership of the Stakeholder Advisory Committee for the Justice Project to include the Teamsters Local 231 Whatcom County Corrections Business Unit and increase the number of members representing criminal justice advocates and individuals with lived experience in the criminal justice system; and

WHEREAS, in March 2020, the Justice Project was put on hold in order to focus county efforts on the emerging public health crisis and pandemic; and

WHEREAS, on September 28, 2021, the Whatcom County Council approved a motion to re-engage the Stakeholder Advisory Committee members and reaffirm the principles in Resolution 2019-036; and

WHEREAS, the Stakeholder Advisory Committee has held its first two meetings (January 20, 2022 and April 7, 2022) and several additional group discussions; and

WHEREAS, the Justice Project planning team has identified a need to include new membership positions on the Stakeholder Advisory Committee to provide representation from the Public Defender's Office and the Prosecutor's Office; and

WHEREAS, consistent participation in the work of the SAC is needed to ensure all SAC Members have a consistent foundation of information from which to build ideas and establish preferences and recommendations for the needs assessment report; and

WHEREAS, the Justice Project planning team would like to establish a date by which vacancies in any Council-appointed SAC positions will no longer be eligible to be filled.

NOW THEREFORE BE IT RESOLVED by the Whatcom County Council that Exhibit A of Resolution 2020-009 is hereby amended, attached hereto and incorporated by reference, to add one (1) member representing the Public Defender’s Office and one (1) member representing the Prosecutor’s Office, bringing the total Stakeholder Advisory Committee membership to 38 members, as well as establishing that after Stakeholder Advisory Committee (SAC) Meeting 3, vacated Council-appointed SAC member positions will no longer be eligible to be filled.

APPROVED this _____ day of _____, 2022.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

Karen Frakes (4/19/2022 by email)

Civil Deputy Prosecutor

EXHIBIT A

PURPOSE OF THE STAKEHOLDER ADVISORY COMMITTEE

Committee Established

The Stakeholder Advisory Committee (SAC) for the Public Health, Safety, and Justice Facility Needs Assessment is hereby established.

Purpose

The purpose of the Stakeholder Advisory Committee (SAC) is to guide the development of a needs assessment for public health, safety and justice facility needs. SAC members will act as **liaisons** to the communities or agencies they represent. They will **share information** about the study, **bring feedback** to the SAC meetings, and **help build a plan** that is reflective of community values. Through engaging communities and agencies they represent, SAC members will help **develop community support** for the recommendations in the Needs Assessment.

Membership

The Stakeholder Advisory Committee will consist of 38 voting members as follows:

1. Whatcom County Council Member
2. Whatcom County Administration
3. Bellingham City Councilmember
4. Bellingham Administration
5. Tribal Nations (2)
6. Small Cities (2)
7. Behavioral Health and Social Service Providers (4) *
May include but not limited to:
 - Mental Health and Substance Use Disorder (SUD)
 - Housing Specialists
 - Domestic Violence Prevention
 - Re-entry Job Training
 - Philanthropic Specialists
8. Incarceration Prevention and Reduction Task Force (acting as the Law and Justice Council (4)
9. Bellingham Police
10. Whatcom County Sheriff
11. Whatcom County Health Department
12. Citizen - Behavioral Health (mental health and substance use disorder (SUD)) Advocate*
13. Citizen - Criminal Justice Advocate (9) *
14. Individual with lived experience in the criminal justice system (5) *
15. Jail Resources/Service Providers*
16. Teamsters Local 231 Whatcom County Corrections Business Unit
17. Public Defender's Office
18. County Prosecutor Office

Members are appointed by their agency, unless marked with an asterisk. Members marked with an asterisk will complete an online application form and submit it to the Whatcom County Council for appointment.

Term of Office

All terms will expire when the committee sunsets at the time all phases of the needs assessment are complete. The phases included in the Needs Assessment are described in a memo and exhibit discussed and approved by the Council Criminal Justice and Public Safety Committee on September 10, 2019 – see AB2019-469. If vacancies of Council-appointed Stakeholder Advisory Committee member positions occur after the third Stakeholder Advisory Committee meeting, vacancies will no longer be eligible to be filled.

Organization – Meetings

- A. SAC meetings shall be open to the public and shall be subject to the Washington State Open Public Meetings Act, Chapter 42.30 RCW.
- B. Twelve members of the SAC shall constitute a quorum for the transaction of business.
- C. The SAC will generally meet on a monthly basis at a location to be determined. Additional meetings will be held as needed to facilitate the completion of the Needs Assessment.
- D. Written and audio recordings of meetings, findings, and recommendations shall be kept and available as a public record.
- E. The SAC will elect a chairperson or co-chairpersons from among its members to preside at its meetings.
- F. The SAC is authorized to develop subcommittees as needed to accomplish their goals.

Committee Staffing

Whatcom County designated staff in conjunction with the consultant team will provide general staffing support. The consultant team will create agendas, lead meetings, and create meeting summaries. The County Executive's Office will designate a staff member to serve as the County Project Manager. The County Project Manager will serve as the main point of contact for the project and coordinate with the consultant team. The County Project Manager will schedule meetings, send out invitations, manage the website information, attend all meetings, and coordinate with SAC members, County staff, and the public to ensure progress and completion of the Needs Assessment. The County Project Manager will complete other tasks as described in AB2019-469.

RESOLUTION NO. _____

**AMENDING THE MEMBERSHIP OF THE
STAKEHOLDER ADVISORY COMMITTEE (SAC) FOR THE JUSTICE PROJECT
(PUBLIC HEALTH, SAFETY, AND JUSTICE FACILITY NEEDS ASSESSMENT)**

WHEREAS, the Whatcom County Council approved Resolution 2019-036 on August 7, 2019, adopting a statement of public health, safety, and justice facility planning principles for Whatcom County; and

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WHEREAS, on September 28, 2021, the Whatcom County Council approved a motion to re-engage the Stakeholder Advisory Committee members and reaffirm the principles in Resolution 2019-036; and

WHEREAS, the Stakeholder Advisory Committee has held its first two meetings (January 20, 2022 and April 7, 2022) and several additional group discussions; and

WHEREAS, the Justice Project planning team has identified a need to include new membership positions on the Stakeholder Advisory Committee to provide representation from the Public Defender's Office and the Prosecutor's Office; and

WHEREAS, consistent participation in the work of the SAC is needed to ensure all SAC Members have a consistent foundation of information from which to build ideas and establish preferences and recommendations for the needs assessment report; and

WHEREAS, the Justice Project planning team would like to establish a date by which vacancies in any Council-appointed SAC positions will no longer be eligible to be filled.

NOW THEREFORE BE IT RESOLVED by the Whatcom County Council that Exhibit A of Resolution 2020-009 is hereby amended, attached hereto and incorporated by reference, to add one (1) member representing the Public Defender’s Office and one (1) member representing the Prosecutor’s Office, bringing the total Stakeholder Advisory Committee membership to 38 members, as well as establishing that after Stakeholder Advisory Committee (SAC) Meeting 3, vacated Council-appointed SAC member positions will no longer be eligible to be filled.

APPROVED this _____ day of _____, 2022.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

Karen Frakes (4/19/2022 by email)

Civil Deputy Prosecutor

EXHIBIT A

PURPOSE OF THE STAKEHOLDER ADVISORY COMMITTEE

Committee Established

The Stakeholder Advisory Committee (SAC) for the Public Health, Safety, and Justice Facility Needs Assessment is hereby established.

Purpose

The purpose of the Stakeholder Advisory Committee (SAC) is to guide the development of a needs assessment for public health, safety and justice facility needs. SAC members will act as **liaisons** to the communities or agencies they represent. They will **share information** about the study, **bring feedback** to the SAC meetings, and **help build a plan** that is reflective of community values. Through engaging communities and agencies they represent, SAC members will help **develop community support** for the recommendations in the Needs Assessment.

Membership

The Stakeholder Advisory Committee will consist of ~~36~~38 voting members as follows:

1. Whatcom County Council Member
2. Whatcom County Administration
3. Bellingham City Councilmember
4. Bellingham Administration
5. Tribal Nations (2)
6. Small Cities (2)
7. Behavioral Health and Social Service Providers (4) *
May include but not limited to:
 - Mental Health and Substance Use Disorder (SUD)
 - Housing Specialists
 - Domestic Violence Prevention
 - Re-entry Job Training
 - Philanthropic Specialists
8. Incarceration Prevention and Reduction Task Force (acting as the Law and Justice Council (4)
9. Bellingham Police
10. Whatcom County Sheriff
11. Whatcom County Health Department
12. Citizen - Behavioral Health (mental health and substance use disorder (SUD)) Advocate*
13. Citizen - Criminal Justice Advocate (9) *
14. Individual with lived experience in the criminal justice system (5) *
15. Jail Resources/Service Providers*
16. Teamsters Local 231 Whatcom County Corrections Business Unit
17. Public Defender's Office
- ~~16.~~18. County Prosecutor Office

Members are appointed by their agency, unless marked with an asterisk. Members marked with an asterisk will complete an online application form and submit it to the Whatcom County Council for appointment.

Term of Office

All terms will expire when the committee sunsets at the time all phases of the needs assessment are complete. The phases included in the Needs Assessment are described in a memo and exhibit discussed and approved by the Council Criminal Justice and Public Safety Committee on September 10, 2019 – see AB2019-469. If vacancies of Council-appointed Stakeholder Advisory Committee member positions occur after the third Stakeholder Advisory Committee meeting, vacancies will no longer be eligible to be filled.

Organization – Meetings

- A. SAC meetings shall be open to the public and shall be subject to the Washington State Open Public Meetings Act, Chapter 42.30 RCW.
- B. Twelve members of the SAC shall constitute a quorum for the transaction of business.
- C. The SAC will generally meet on a monthly basis at a location to be determined. Additional meetings will be held as needed to facilitate the completion of the Needs Assessment.
- D. Written and audio recordings of meetings, findings, and recommendations shall be kept and available as a public record.
- E. The SAC will elect a chairperson or co-chairpersons from among its members to preside at its meetings.
- F. The SAC is authorized to develop subcommittees as needed to accomplish their goals.

Committee Staffing

Whatcom County designated staff in conjunction with the consultant team will provide general staffing support. The consultant team will create agendas, lead meetings, and create meeting summaries. The County Executive's Office will designate a staff member to serve as the County Project Manager. The County Project Manager will serve as the main point of contact for the project and coordinate with the consultant team. The County Project Manager will schedule meetings, send out invitations, manage the website information, attend all meetings, and coordinate with SAC members, County staff, and the public to ensure progress and completion of the Needs Assessment. The County Project Manager will complete other tasks as described in AB2019-469.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-235

File ID:	AB2022-235	Version:	1	Status:	Agenda Ready
File Created:	04/13/2022	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Presentation		
Assigned to:	Council Planning and Development Committee			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Presentation by Planning and Development Services on the life cycle of a permit

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Presentation from Planning and Development Service on the life cycle of a permit (presentation requested by Councilmember Elenbaas)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments:



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-251

File ID:	AB2022-251	Version:	1	Status:	Agenda Ready
File Created:	04/19/2022	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Committee of the Whole			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: DBrown@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Discussion of proposed resolution establishing priorities for Whatcom County's 2025 Comprehensive Plan update

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See memo.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Staff Memo, Proposed Resolution



WHATCOM COUNTY COUNCIL

TO: Whatcom County Councilmembers

CC: Executive Satpal Sidhu

FROM: Kaylee Galloway and Carol Frazey

DATE: March 22, 2022

RE: Comprehensive Plan Priorities

The Washington State Growth Management Act (GMA) requires Whatcom County to develop a comprehensive plan for managing population growth and development, accommodating projected growth for a 20-year planning period. The last major update and UGA review was approved August 9, 2016. The GMA requires cities and counties to periodically review and revise its comprehensive plan and development regulations. Whatcom County's update is due on or before June 30, 2025, and every 10 years thereafter ([HB 1241](#)). We must begin to work towards our 2025 update now, which presents a timely opportunity to update our priorities ensuring our comprehensive plan meets all current and future needs of Whatcom County. We cannot afford to wait another 10 years.

Over the last several years, the Washington State Legislature has considered several bills that address GMA reform. Notable ones include [HB 1099](#) (incorporating climate change), [HB 1117](#) (incorporating salmon recovery and net ecological gain), and [HB 1717](#) (creating framework for tribal participation). While HB 1717 passed this year, HB 1099 and HB 1117 did not, but this does not preclude Whatcom County from proactively and voluntarily incorporating these and other components into our updated comprehensive plan.

Given Whatcom County is committed to addressing climate change, as well as equity and upholding tribal treaty rights, we believe these shared values and priorities should be reflected in our updated comprehensive plan. As such, we wish to be proactive partners in updating the comprehensive plan and plan to bring forward a resolution that would outline four major priorities:

1. Follow the framework established in HB 1099 (2021-22), adding a goal of climate change mitigation to planning, addressing the adverse impacts of climate change on people, property, infrastructure, and ecological systems, and reducing overall greenhouse gas (GHG) emissions.
2. Follow the framework established in HB 1117 (2021-22), adding a goal of salmon recovery to planning, work towards net ecological gain of salmon habitat, and work towards eliminating fish passage barrier culverts.
3. Incorporate equity and environmental justice considerations throughout the comprehensive plan.
4. Follow the framework established in HB 1717, providing a participation process for Lummi Nation and Nooksack Indian Tribe to engage government-to-government in our comprehensive planning.

Updating our comprehensive plan will require significant interdepartmental, intergovernmental, and community coordination and collaboration. We hope that this can be done so through a refreshed lens given updated values and priorities focused on our future needs.

RESOLUTION NO. _____

ESTABLISHING PRIORITIES FOR WHATCOM COUNTY'S 2025
COMPREHENSIVE PLAN UPDATE

WHEREAS, the Washington State Growth Management Act (GMA) requires Whatcom County to develop a Comprehensive Plan for managing population growth and development, which was adopted in May of 1997; and

WHEREAS, the GMA requires Whatcom County to review urban growth areas (UGAs) under RCW 36.70A.130(3) to be able to accommodate population and employment growth projected for the 20-year planning period; and

WHEREAS, the GMA requires Whatcom County to periodically review and revise its Comprehensive Plan and development regulations under RCW 36.70A.130(1); and

WHEREAS, on August 9, 2016, Whatcom County adopted Ordinance 2016-034 updating the Comprehensive Plan; and

WHEREAS, the GMA requires Whatcom County to review, and if needed, revise its Comprehensive Plan and development regulations on or before June 30, 2025, and every ten years thereafter; and

WHEREAS, the current Comprehensive Plan contains chapters on many intersectional issues impacted by climate change, equity, and economic security including Land Use, Housing, Capital Facilities, Utilities, Transportation, Economics, Resource Lands, Recreation, and Environment; and

WHEREAS, on November 9, 2021, the Whatcom County Council passed Resolution 2021-049, adopting the 2021 Whatcom County Climate Action Plan, which develops goals, strategies, and actions to reduce greenhouse gas emissions and build climate resilience related to buildings, energy, industry, transportation, waste, land use, water, fisheries, agriculture, forestry and ecosystems; and

WHEREAS, Whatcom County has experienced increasingly severe effects of phenomena related to climate change including wildfires, smoke, heat dome, drought, and floods; and

WHEREAS, recent scientific reports from the Intergovernmental Panel on Climate Change point out that time is running short for communities everywhere to mitigate the worst effects of climate change; and

WHEREAS, the current Whatcom County Comprehensive Plan needs to more clearly establish a nexus between climate change, equity, and economic security; and

WHEREAS, over the last several years, the Washington State Legislature considered several bills that address GMA and comprehensive planning including, but not limited to, HB 1099 (2021-22) and HB 1117 (2021-22); and

WHEREAS, legislation failing to pass during previous legislative sessions does not preclude Whatcom County from proactively and voluntarily incorporating these policy proposals into the updated Comprehensive Plan; and

WHEREAS, the Whatcom County Council believes the updated Comprehensive Plan should reflect our shared values and address the current and future needs of Whatcom County; and

WHEREAS, the Whatcom County Council looks forward to working collaboratively with the Executive, county staff, relevant Whatcom County boards, commissions, and advisory committees, Tribes, and other jurisdictions to adopt an updated Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the following priorities be considered for incorporation into the updated Comprehensive Plan due on or before June 30, 2025:

1. Develop and use a climate resilience and equity lens to inform all chapters of the Comprehensive Plan and associated planning and regulatory documents.
2. Incorporate equity and environmental justice considerations throughout the entire Whatcom County Comprehensive Plan, including but not limited to:
 - Strengthening the “Diverse Cultural Composition” section of the Land Use chapter to include both equity and sovereignty.
 - Considering SB 5141 (2021-22) the Healthy Environment for all (HEAL) Act and the Washington Environmental Health Disparities Map for additional guidance.
 - Incorporating the Whatcom County “Healthy Planning” approach established by resolution number 2015-038.
 - Consulting with the Whatcom County Health Department, Racial Equity Commission, Child and Family-Wellbeing Taskforce, and with organizations representing farm workers, farmers, low-income families and children, and other groups disproportionately impacted by climate change and environmental injustices.
3. Follow the framework established in HB 1717 (2021-22), concerning tribal participation in planning under the growth management act. HB 1717 provides an opportunity for tribes to pass a resolution notifying the County of their desire to participate. The notification by the tribe to the County obligates the County to negotiate in good faith with the tribe to develop a memorandum of agreement that describes the procedures for including the tribe in the planning process. Therefore, Whatcom County should:
 - In good faith, fully engage government-to-government with Lummi Nation and Nooksack Indian Tribe in the development and implementation of the comprehensive plan when such planning or implementation has the potential to have substantial direct effect on tribal governments and treaty rights.
 - Work to ensure tribal treaty rights and sovereignty are considered and upheld in all aspects of the Whatcom County Comprehensive Plan.

4. Incorporate climate change considerations throughout the Comprehensive Plan, including but not limited to:
- Mitigating and adapting to climate change, reducing greenhouse gas (GHG) emissions, and building climate resilience by implementing the recommendations of the Whatcom County Climate Action Plan.
 - Changing the title of the Environment chapter to "Environment and Climate Resilience".
 - Adding goals of climate change mitigation and adaptation, and including measures to mitigate the adverse impacts of climate change on people, property, infrastructure, and ecological systems.
 - Adding language to encourage a natural climate solutions approach to climate mitigation and resilience.
 - In the Transportation chapter, reducing transportation related emissions by:
 - Incorporating a goal to reduce vehicle miles traveled (VMT) to be accomplished by goals, policies, objectives or strategies which may include but are not limited to:
 - improving bicycle and pedestrian infrastructure by implementing the recommendations of the Whatcom County Pedestrian and Bicycle Plan including the Regional Trails Plan and Route Map proposed by the Bicycle/Pedestrian Advisory Committee;
 - encouraging the use of public transportation; and
 - improving coordination between development and transportation systems; and
 - deploying affordable high-speed broadband.
 - Expanding use of electric transportation (bicycles, cars, trucks, buses, and ferry) and associated infrastructure.
 - Developing a plan to transition the county fleet, including vehicles, ferry, and other equipment, to electric, hydrogen, biofuels or other non-emitting technologies as soon as feasible.
 - In the Housing chapter, ensuring housing development meets current and future housing, equity, climate, and environmental needs by:
 - Updating and strengthening land use codes and housing regulations that further encourage, and where appropriate, require affordable, dense, sustainable, low impact, and energy efficient development. Strategies could include:
 - transit-oriented development;
 - infill development;
 - density bonuses;
 - inclusionary zoning;
 - clustering subdivisions to preserve green spaces;
 - urban villages;
 - farmland trusts;
 - home size restrictions;
 - mixed and middle housing;
 - County acquisition of land for permanently affordable housing development; and
 - considering availability and development of housing near employment opportunities to reduce travel needs.
 - Supporting building codes that incentivize all-electric buildings for new construction, including wiring and panels to support on-site solar arrays, battery storage, electric vehicle charging, and other additional electrical appliances.

- Encouraging electrification, retrofitting, and weatherization of existing buildings.
 - Considering the connection between climate change and housing, and the disproportionate impacts to vulnerable and rural communities.
 - In the Capital Facilities chapter, considering climate change impacts to critical infrastructure and Whatcom County facilities, including but not limited to:
 - Evaluating the climate vulnerability and risk of existing infrastructure in Whatcom County.
 - Updating energy efficiency and installing electric heat pumps.
 - Increasing renewable energy generation and energy storage.
 - Installing electric vehicle infrastructure.
 - Designing and building new county facilities in a sustainable way including:
 - net zero energy use;
 - increasing energy resilience;
 - utilizing local, sustainably sourced building materials;
 - enhancing microgrid capabilities; and
 - developing at locations that reduce employee commute time and increase accessibility to public and alternative transportation modes, reducing transportation related emissions.
 - In the Economic chapter, promote a more diverse, equitable, sustainable, and climate resilient future economy, including but not limited to:
 - Supporting living wage job creation in green industry, commerce, forestry, and agriculture.
 - Supporting a just clean energy transition for workers and communities.
 - Investing in robust economic and workforce development at all levels, including in climate-resilient and green energy related fields.
 - Increasing access to quality and affordable childcare by implementing the recommendations of the Whatcom County Child and Family Well-Being Action Plan.
 - Increasing access to quality and affordable high-speed broadband.
5. Incorporate sustainable aquatic and marine environments for salmon and other species throughout the Comprehensive Plan, including but not limited to:
- Adding a salmon recovery goal.
 - Implementing the actions outlined in the Water Resource Inventory Area (WRIA) 1 Salmonid Recovery Plan.
 - Incorporating WRIA 1 Watershed Management Board Plans and strategies.
 - In the Land Use chapter, consider a framework and strategy for achieving net ecological gain of salmon and other aquatic species habitat for all public projects and a voluntary incentive driven framework and strategy for private projects.
 - In the Capital Facilities or Transportation chapter, include a prioritized list and proposed schedule for the elimination of identified fish passage barriers in coordination with the Tribes, State, Cities, and private landowners.
 - Protecting critical areas by strengthening mitigation requirements in development regulations including requiring net gain in pervious surface area.
6. Support a thriving local agriculture and food system economy and food security in the Resource Lands Chapter of the Comprehensive Plan by:
- Considering the impacts of climate change on agriculture and agricultural

workers such as rising temperatures, more severe and unpredictable weather events, air quality, water quality and quantity, and soil health.

- Working to provide secure and legal access to water for farmers employing water conservation and water use efficiency principles.
- Integrate water supply planning and land use planning to support Whatcom County's goal of maintaining a minimum of 100,000 acres of agricultural land.
- Promoting opportunities to increase sustainability and climate resilience in agriculture and processing.
- Enhancing local food security and food sovereignty by implementing the recommendations of the Whatcom County Food System Plan.
- Improving wages, housing, and working conditions for food chain workers.
- Ensure safe and affordable on-farm housing for farmers and farmworkers.
- Increasing demand for local food products and expanding support networks for local agriculture product development.
- Encouraging research and development of drought- and heat- tolerant crops, and agriculture technologies that will reduce emissions, improve soil health, and increase efficient use of water.
- Encouraging farming practices that protect and regenerate soil, water, land, and carbon sequestration.
- Preserving productive agricultural lands across Whatcom County by implementing the recommendations of the Whatcom County Agricultural Strategic Plan and the 2019 Rural Land Study, considering rezoning (such as R5 to Ag 20 or similar), and increasing funding and staff capacity for the Conservation Easement Program.
- Expanding allowable agricultural land uses to include non-traditional farming models.

7. Build resilience to climate change in forests that enables both a thriving timber economy and healthy sustainable forest ecosystems for wildlife, carbon sequestration and storage, and recreation. Management practices that enhance forest and watershed health and sustainability include, but are not limited to:

- Using the best available science and climate projections when planning timber harvests to evaluate the potential adverse impacts to peak flows, summer stream flows, water quality, wildlife, slope stability, and wildfire risk.
- Encouraging uneven-aged forest management practices through selective harvest and variable density thinning to enhance structural complexity, biodiversity, drought-tolerance, fire resilience, hydrologic function, and protection of fish-bearing and non-fish-bearing streams.
- Expanding carbon market opportunities that reward landowners who actively manage their forests to increase carbon storage.
- Evaluating the net loss or gain in carbon emissions and ecological function when rezoning forest lands for other uses.
- Encouraging reforestation, or afforestation, of previously cleared riparian and upland areas.
- Promoting development of Whatcom Grown timber products that meet climate resilience standards, support the local timber economy, and reduce transportation related emissions.
- Supporting transition of forest industries and employees to climate resilient forest harvest techniques.
- Identifying, designating, and updating regulations to protect wildlife corridors and climate migration corridors.

8. More thoroughly consider impacts of climate change, equity, and economic security in relation to natural hazards mitigation and emergency response, including but not limited to:
- Incorporating climate change impact assessments and vulnerability and risk assessments to inform future development and preservation efforts.
 - Considering the impacts of flooding, increasing temperatures, heat domes, droughts, wildfire, and smoke to human health, the environment, natural resources, resource lands, and economic security.
 - In the Land Use and Environment chapters, enhancing flood sections to help mitigate against increased intensity and frequency of flood events by:
 - Restoring, where possible, the environmental functions of our rivers and streams.
 - Improving flood plain water storage and infiltration capacities.
 - Considering dike setbacks where appropriate.
 - Better preparing for floods and considering the disproportionate impacts of flooding on rural and vulnerable communities.
 - Considering buy backs in designated floodways.
 - Considering water storage options that do not include dams.
 - In the Environment and/or Shoreline chapters, as well as in the Critical Areas Ordinance and the Shoreline Master Program, more thoroughly incorporate coastal resilience to plan, prepare, build resilience to climate impacts, and reduce vulnerabilities and risks.
 - Planning for sea level rise, changing ocean conditions, storm surges, and floods, and its impacts on coastal residential communities, declining marine fisheries, shellfish beds, coastal infrastructure, and recreation areas.
 - Reducing development in current and projected future shoreline areas.
 - In the Capital Facilities chapter, consider establishing and maintaining County Resilience Centers during emergencies or disasters. These facilities could:
 - Provide controlled temperature shelter as well as food, water, and cots for disasters or power outages.
 - Prioritize under-served communities more vulnerable to disasters such as floods, wildfires, and prolonged heat/cold spells.

BE IT FINALLY RESOLVED, in order to achieve the aforementioned priorities, the Whatcom County Council encourages significant coordination and collaboration between:

- Whatcom County departments including the Planning & Development Services, Public Works, Parks & Recreation, Health Department, and the Emergency Management Division of the Sheriff's Office.
- Whatcom County boards, commissions, and advisory committees including, but not limited to, the Planning Commission, Climate Impact Advisory Committee, Bicycle/Pedestrian Advisory Committee, Racial Equity Commission, Forest Advisory Committee, Agricultural Advisory Committee, Food System Committee, Child and Family Wellbeing Taskforce, Business and Commerce Advisory Committee, Housing Advisory Committee, and WRIA 1 Planning Unit.
- Tribes including Lummi Nation and the Nooksack Indian Tribe.
- The seven incorporated cities of Whatcom County including Bellingham, Blaine, Ferndale, Lynden, Sumas, Everson, and Nooksack.
- The Port of Bellingham.
- The Public Utility District No. 1 of Whatcom County.

- State Agencies including the Department of Natural Resources, Department of Ecology, Department of Fish and Wildlife, Department of Agriculture, and Department of Commerce.
- Non-governmental organizations, businesses, and members of the community with lived experiences.

APPROVED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

Karen Frakes, Civil Deputy Prosecutor



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-224

File ID:	AB2022-224	Version:	1	Status:	Introduced
File Created:	03/31/2022	Entered by:	JFleisch@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance		
Assigned to:	Council Committee of the Whole	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: jfleisch@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending WCC 2.123.040 Membership - Term of Office for the Forestry Advisory Committee

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The proposal will amend Whatcom County Code (WCC)2.123.040 to allow the County Council to waive the registered voter/residency requirement for representatives of commercial forestry landowners on the Forestry Advisory Committee.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED	Council Committee of the Whole

Attachments: Staff memo, Proposed ordinance, Exhibit A



Memorandum

TO: Whatcom County Council

FROM: Joshua Fleischmann, Planner

THROUGH: Steve Roberge, Assistant Director

DATE: April 5, 2022

SUBJECT: Amendment to Whatcom County Code 2.123.040 Membership - Term of Office for the Forestry Advisory Committee

The proposed ordinance will amend Section 2.123.040 Membership - Term of Office for the Forestry Advisory Committee (FAC) allowing the County Council to waive the registered voter/residency requirement for representatives of commercial forestry landowners on the FAC.

The FAC consists of 11 membership positions, of which there are presently 6 positions filled. Two of the unfilled positions are for "commercial forestry landowners or their eligible representatives".

The Commercial Forestry zone in Whatcom County does not allow for construction of residential dwellings. Therefore, unsurprisingly, a large percentage of the commercial forestland is held by entities whose primary mission is the active management of forestlands for the purpose of harvesting timber.

Whatcom County and the Washington State Department of Natural Resources (DNR) collectively own roughly 50% of commercial forestland in Whatcom County, and are both represented as part of the FAC, either as a member (DNR) or as staff support (Whatcom County).

Meanwhile timber management companies with headquarters located outside of Whatcom County make up another 43% (~80,000 acres) of the commercial forestland ownership and may not have representatives eligible for membership on the FAC due to the registered voter/residency requirement. However, they have a clear vested interest in forestry policy in Whatcom County.

These amendments would allow the County Council to appoint non-resident representatives of timber management companies to the FAC. This amendment

would allow timber management companies with vested interests in forestry to be involved in discussions and recommendations that affect the forestry industry.

If you have any questions, please contact Joshua Fleischmann at 360-778-5952 or jfleisch@co.whatcom.wa.us.

ORDINANCE # _____

**AMENDMENT TO WHATCOM COUNTY CODE 2.123.040 MEMBERSHIP-TERM OF
OFFICE FOR THE FORESTRY ADVISORY COMMITTEE**

WHEREAS, the Whatcom County Forestry Advisory Committee is comprised of 11 members appointed by the County Council; and

WHEREAS, there are presently 5 vacant positions on the Forestry Advisory Committee; and

WHEREAS, 2 vacant positions are for commercial forest landowners or their eligible representatives; and

WHEREAS, to qualify for appointment by the council and/or executive to fill any vacancy on a board, committee or commission, a person shall be a qualified registered voter and resident of Whatcom County; and

WHEREAS, Whatcom County contains approximately 187,311 acres of commercial forestry zoned land;

WHEREAS, roughly 50% of all commercial forestry zoned land is under public ownership, primarily by the Washington State Department of Natural Resources or Whatcom County;

WHEREAS, roughly 89% of all privately owned commercial forestland is owned by timber companies with landholdings greater than 1,400 acres;

WHEREAS, roughly 87% of all privately owned commercial forestland is owned by timber companies with headquarters outside of Whatcom County that may not have representatives that can meet residency requirements; and

WHEREAS, these timber companies headquartered outside of Whatcom County have a vested interest in what the Forestry Advisory Committee does and how they advise the Council.

NOW, THEREFORE, BE IT ORDAINED that Whatcom County Code Chapter 2.123 is hereby amended as shown in Exhibit A.

ADOPTED this _____ day of _____, 2022

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Royce Buckingham
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved

() Denied

Date Signed: _____

Exhibit A

Title 2 Administration and Personnel Amendments

Chapter 2.123 FORESTRY ADVISORY COMMITTEE

2.123.040 Membership - Term of Office

The committee shall consist of 11 voting members as follows: two small forest landowners, two commercial forest landowners or their ~~eligible~~ representatives, two harvesters, two private citizens with forestry expertise, two forest product manufacturers, and one representative designated by the Department of Natural Resources.

Committee members shall be appointed by the county council. Member terms will be four years. The County Council shall have the right to waive the qualified registered voter and residency requirement (WCC 2.03.100) for representatives of the commercial forest landowner positions on the committee.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2022-026

File ID:	MIN2022-026	Version:	1	Status:	Agenda Ready
File Created:	04/12/2022	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: kfelbing@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Committee of the Whole Executive Session for April 12, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Draft Minutes Committee of the Whole Exec April 12 2022

Whatcom County Council Committee of the Whole-Executive Session

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Committee Minutes - Draft Minutes

Tuesday, April 12, 2022

9:30 AM

Hybrid Meeting

**HYBRID MEETING - ADJOURNS BY 10:15 A.M. (PARTICIPATE IN-PERSON OR
SEE REMOTE JOIN INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil
OR CALL 360.778.5010)**

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Todd Donovan called the meeting to order at 9:31 a.m. in a hybrid meeting.

Roll Call

Present: 6 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, and Kaylee Galloway

Absent: 1 - Kathy Kershner

Announcements

Committee Discussion

Attorneys Present: Royce Buckingham and Karen Frakes.

Donovan stated that discussion of agenda item one may take place in executive session pursuant to RCW 42.30.110 (1) (i). Executive session will conclude no later than 10:15 a.m. If the meeting extends beyond the stated conclusion time, Council Staff will make a public announcement.

Buchanan moved to go into executive session until no later than 10:15 a.m. to discuss the agenda item pursuant to the RCW citation as announced by the Council Chair. The motion was seconded by Byrd.

The motion carried by the following vote:

Aye: 5 - Buchanan, Byrd, Donovan, Frazey, and Galloway

Nay: 0

Temporarily Absent: 1 - Elenbaas

Absent: 1 - Kershner

Clerk's note: Elenbaas joined the meeting after the roll call and vote.

1. [AB2022-216](#) Discussion to update Council with outside counsel, Dennis McLerren, re: Petrogas Pacific, LLC and Petrogas West, LLC, Clean Air Agency violations. [Discussion of this item may take place in executive session (closed to public) pursuant to RCW42.30.110 (1) (i)]

This agenda item was DISCUSSED.

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 9:53 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2022-027

File ID:	MIN2022-027	Version:	1	Status:	Agenda Ready
File Created:	04/13/2022	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: kfelbing@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Committee of the Whole for April 12, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Draft Minutes Committee of the Whole Apr 12 2022

Whatcom County Council Committee of the Whole

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Committee Minutes - Draft Minutes

Tuesday, April 12, 2022

1:45 PM

Hybrid Meeting

**HYBRID MEETING - ADJOURNS BY 1:55 P.M. (PARTICIPATE IN-PERSON OR
SEE REMOTE JOIN INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil
OR CALL 360.778.5010)**

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Todd Donovan called the meeting to order at 1:45 p.m. in a hybrid meeting.

Roll Call

Present: 5 - Barry Buchanan, Todd Donovan, Carol Frazey, Kaylee Galloway, and Kathy Kershner

Absent: 2 - Tyler Byrd, and Ben Elenbaas

Announcements**Committee Discussion and Recommendation to Council**

1. [AB2022-190](#) Ordinance amending Whatcom County Code 2.21, Board of Equalization
Dana Brown-Davis, Clerk of the Council, briefed the Councilmembers.

Jennifer Schneider, Clerk of the Board of Equalization, answered how it has been working before adding these new positions and since the new districts.

Buchanan moved and Kershner seconded that the Ordinance be RECOMMENDED FOR ADOPTION. The motion carried by the following vote:

Aye: 5 - Buchanan, Donovan, Frazey, Galloway, and Kershner

Nay: 0

Absent: 2 - Byrd, and Elenbaas

Items Added by Revision

There were no agenda items added by revision.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 1:49 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2022-028

File ID:	MIN2022-028	Version:	1	Status:	Agenda Ready
File Created:	04/18/2022	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: kfelbing@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Regular County Council for April 12, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Draft Minutes Council Apr 12 2022

Whatcom County Council

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Minutes - Draft Minutes

Tuesday, April 12, 2022

6 PM

Hybrid Meeting

**HYBRID MEETING (PARTICIPATE IN-PERSON OR SEE REMOTE JOIN
INSTRUCTIONS AT www.whatcomcounty.us/joinvirtualcouncil OR CALL
360.778.5010)**

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

COUNTY COUNCIL

CALL TO ORDER

Council Chair Todd Donovan called the meeting to order at 6 p.m. in a hybrid meeting.

ROLL CALL

Present: 7 - Barry Buchanan, Tyler Byrd, Todd Donovan, Ben Elenbaas, Carol Frazey, Kaylee Galloway, and Kathy Kershner

Absent: None

FLAG SALUTE

ANNOUNCEMENTS

COUNTY EXECUTIVE'S REPORT

Satpal Sidhu, County Executive, reported on the following:

- Public safety and housing updates for the county. He spoke about a letter from all seven of the city mayors supporting the new public safety building and the need for a new building for our current jail and treatment programs. He urged the Council to continue to make more investments in public safety measures in the coming years.
- A recent incident concerning an Assessor's Office property inspector, the role and legal authority of the Assessor's Office, a request to join him in working to dispel misconceptions about the Assessor's authority, and the role of elected officials in supporting County staff who interact with the public.

MINUTES CONSENT

Buchanan moved to accept the minutes consent items. The motion was seconded by Byrd (see votes on individual items below).

1. [MIN2022-023](#) Committee of the Whole for March 22, 2022

Buchanan moved and Byrd seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

2. [MIN2022-024](#) Regular County Council for March 22, 2022

Buchanan moved and Byrd seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

3. [MIN2022-025](#) Health Board for March 29, 2022

Buchanan moved and Byrd seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

PUBLIC HEARINGS

Council staff played a short instructional video about how to speak at the meeting.

1. [AB2022-177](#) Ordinance amending Whatcom County Code Section 1.14, Electoral Precincts, adjusting boundary lines based on decennial census information in the Legislative, Congressional and County Council districts

Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Byrd moved and Buchanan seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2022-028

2. [AB2022-121](#) Resolution vacating a portion of Horton Road

Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Byrd moved and Frazey seconded that the Resolution Requiring a Public Hearing be APPROVED.

Councilmembers discussed that there was a motion made in Committee.

Andrew Hester, Public Works Department, stated the action would be to approve an amended Resolution waiving the utility reservation easement.

Donovan moved to amend the Resolution to waive the utility reservation easement. The motion was seconded by Buchanan.

Councilmembers and staff discussed the motion and that there were two requests discussed which were waiving the reservation of the utility easement and waiving the compensation that would be due from the road vacation. They discussed whether they should be dealt with separately.

The motion to amend carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Councilmembers and staff discussed whether they should wait in order to get more information of the cost benefit analysis of the mitigation bank and what the \$26,000 would otherwise go to, and whether the Council could go forward with the vacation and address just the compensation issue at a later date.

Karen Frakes, Prosecuting Attorney's Office, stated she could not answer that question off the top of her head and would have to look a little closer at the law.

Scott Havill, City of Bellingham Mitigation Coordinator, stated the City would prefer to be able to complete the full right of way vacation transaction at this meeting if possible.

Kershner moved and Buchanan seconded that the Resolution Requiring a Public Hearing be APPROVED AS AMENDED.

Councilmembers discussed the motion.

Kershner's motion that the Resolution Requiring a Public Hearing be APPROVED AS AMENDED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2022-016

3. [AB2022-122](#) Resolution vacating a portion of Boxwood Road

Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Byrd moved and Frazey seconded that the Resolution Requiring a Public Hearing be APPROVED.

Kershner moved to amend the Resolution to waive the utility easement. The motion was seconded by Buchannan.

The motion to amend carried by the following vote:

Aye: 7 - Byrd, Donovan, Elenbaas, Frazey, Galloway, Kershner, and Buchanan

Nay: 0

Byrd's motion that the Resolution Requiring a Public Hearing be APPROVED AS AMENDED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2022-017

4. [AB2022-162](#) Ordinance establishing movement restrictions on E. Hemmi Road at the intersection with Hannegan Road

Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Byrd moved and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Jim Karcher, Public Works Department, briefed the Councilmembers.

Elenbaas stated he hopes people along the detour know this is happening, that it may bring more traffic but it is for the kids, and that they are asking the Sheriff's Office with this Ordinance to do emphasis patrols.

Karcher answered whether there are any sunsets on this Ordinance and whether they are planning to come back and review and see how effective it was.

Byrd's motion that the Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2022-029

5. [AB2022-163](#) Ordinance Removing a School Speed Zone on Hannegan Road

Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Frazey moved and Buchanan seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Jim Karcher, Public Works Department, answered and Councilmembers discussed whether there is a fence along the road.

Frazey's motion that the Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2022-030

6. [AB2022-164](#) Ordinance establishing parking control on Eddie Lane within the Plat of Whisper Lake

Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.

Byrd moved and Kershner seconded that the Ordinance Requiring a Public Hearing be ADOPTED.

Jim Karcher, Public Works Department, gave background on this and how it related to the next two agenda items and answered whether there will be any complaints or people upset about this parking zone.

Byrd's motion that the Ordinance Requiring a Public Hearing be ADOPTED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2022-031

7. [AB2022-165](#) Ordinance Establishing a Speed Limit within the Plat of Whisper Lake
- Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.
- Kershner moved and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:**
- Aye:** 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner
- Nay:** 0
- Absent:** 0
- Enactment No: ORD 2022-032
8. [AB2022-166](#) Ordinance for installation of a stop sign within the plat of Whisper Lake
- Donovan opened the Public Hearing and, hearing no one, closed the Public Hearing.
- Byrd moved and Frazey seconded that the Ordinance Requiring a Public Hearing be ADOPTED. The motion carried by the following vote:**
- Aye:** 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner
- Nay:** 0
- Absent:** 0
- Enactment No: ORD 2022-033

OPEN SESSION (20 MINUTES)

The following people spoke:

- Steven Bailey (testimony not heard online or on the recording-- there was temporarily no sound)
- Cliff Langley
- Misty Flowers
- Cynthia Sue Ripke-Kutsagoitz
- Tammy (last name not given)
- Steven Bailey (the first speaker spoke again since there was no sound earlier when he spoke)
- Daniel Beurdick
- Lyle Sorenson
- Name not given
- Armando Brionez
- Craig Robinson
- Name not given

- Klaus Klix
- Richard Halley
- Tasha Dexter Thompson
- Robert Bystrom
- Natalie Chavez
- Mary Walker
- Enoch Mann
- Dennis Sorenson
- Richard Johnson
- Lorraine Sorenson
- Megan Wiseman
- Dam Pham
- Karla Rae
- Ken Domorod
- Beth (last name not given)
- Nancy Bergman
- Richard Tran
- Susan Prosser
- Daniel Donner

Hearing no one else, Donovan closed the Open Session.

Clerk's note: Councilmembers took a short break.

CONSENT AGENDA

(From Council Finance and Administrative Services Committee)

Byrd reported for the Finance and Administrative Services Committee and ***moved*** to approve Consent Agenda items one through fourteen.

Councilmembers discussed and voted on those items (see votes on individual items below).

1. [AB2022-195](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Skagit County Sheriff's Office for use of the Plantation Rifle Range to train personnel, in the amount of \$16,109.98

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

2. [AB2022-196](#) Request Authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$27,865.67

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

3. [AB2022-171](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Office of Public Defense to be reimbursed for increased service costs related to Covid 19, in the amount of \$73,000.00

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

4. [AB2022-184](#) Request approval for the County Executive to enter into a contract amendment with Herrera Environmental Consultants, Inc. to expand the scope of work, timeline, and funding to complete the Offsite Buffer Mitigation Program Feasibility Study in the amount of \$60,000 for a total amended contract of \$100,000

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

5. [AB2022-198](#) Request authorization for the County Executive to enter into a contract between Whatcom County and Public Safety Testing to conduct background investigations on Sheriff's office employment candidates, in the amount of an estimated \$42,000.00

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion

carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

6. [AB2022-199](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Julota to integrate data among various data storage platforms used to track and monitor services and care provided to individuals frequently seen by the GRACE and LEAD Programs in the amount of \$26,103 for a total amended contract amount of \$80,353

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

7. [AB2022-201](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the Marysville Police Department for use of the Plantation Rifle Range to train personnel, in the amount of \$3,005.52

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

8. [AB2022-203](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Opportunity Council to provide Leasing Specialist and intensive case management services in the amount of \$159,613 for a total amended contract amount of \$229,103

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

9. [AB2022-204](#) Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Axon Enterprise, Inc. to provide additional body worn cameras and detective interview room cameras, in the amount of \$102,457.76

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

10. [AB2022-205](#) Request authorization for the County Executive to enter into a contract between Whatcom County and North Sound Behavioral Health Administrative Services Organization to provide funding for the Recovery Navigator Program intended to enhance Law Enforcement Assisted Diversion (LEAD) programming, in the amount of \$512,455

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

11. [AB2022-210](#) Request authorization for the County Executive to enter into a contract between Whatcom County and PeaceHealth for the lease of office space for the Health Department's Response Systems Division at 800 East Chestnut Street, in the amount of \$9,171.96

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

12. [AB2022-213](#) Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and the City of Bellingham for use of Bellingham's 800MHz Radio Network, in the amount of \$5,040

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED BY CONSENT. The motion

carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

13. [AB2022-222](#) Request permission for the County Executive to enter into a Local Agency A&E Professional Services Agreement between Whatcom County and KPFF, Inc. to provide on-call professional mechanical engineering support for the Whatcom County ferry program in 2022, in the amount of \$40,000.00

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

14. [AB2022-228](#) Request authorization for the County Executive to enter into an interlocal agreement amendment between Whatcom County and Whatcom Conservation District for farm planning services and financial assistance, in the amount of \$140,021 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Byrd reported for the Finance and Administrative Services Committee and moved that the Contract (FCZDBS) be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. [AB2022-194](#) Request authorization for the County Executive to enter into a contract between Whatcom County and the City of Bellingham to support Child and Family Action Plan implementation activities, in the amount of \$150,000

***Byrd* reported for the Finance and Administrative Services Committee and *moved* that the Contract be AUTHORIZED.**

Kershner spoke about the title of the item and stated this is \$150,000 that the City of Bellingham is contributing to the Whatcom County Child and

Family Action Plan implementation; so the County is not giving the City of Bellingham \$150,000, they are contributing to the plan that we have for children and families.

Byrd's motion that the Contract be AUTHORIZED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

2. [AB2022-197](#) Request authorization for the County Executive to enter into a grant agreement between Whatcom County and Washington Department of Ecology to develop and implement a collaborative process to identify local solutions for water availability issues in the Nooksack Basin and supporting technical work in the amount of \$250,000

Byrd reported for the Finance and Administrative Services Committee and **moved** that the Interlocal be AUTHORIZED.

Elenbaas stated he hopes we are heavy on technical work and implementing the process and less so the development.

Kershner stated this is \$250,000 from the Department of Ecology to Whatcom County and this is money that is to go in parallel with the adjudication process that's happening so that if there are some different ways or local solutions that we can come to some agreement, this money will help us do that.

Byrd's motion that the Interlocal be AUTHORIZED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

3. [AB2022-202](#) Request authorization for the County Executive to enter into a Interagency agreement between Whatcom County and the State of Washington Department of Ecology for Whatcom Compound Flood Vulnerability and Risk Assessment

Byrd reported for the Finance and Administrative Services Committee and moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

(From Council Committee of the Whole)

4. [AB2022-190](#) Ordinance amending Whatcom County Code 2.21, Board of Equalization

Donovan reported for the Committee of the Whole and moved that the Ordinance be ADOPTED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: ORD 2022-034

(No Committee Assignment)

5. [AB2022-220](#) Resolution establishing guidelines for Council appointment to judicial and legislature vacancies

Kershner moved and Frazey seconded that the Resolution be APPROVED.

Kershner thanked Council staff for putting this together.

Councilmembers discussed and Dana Brown-Davis, Clerk of the Council, and Cathy Halka, Council Legislative Analyst, answered questions about whether the Resolution was introduced two weeks ago, whether language should be added to the Resolution about being able to ask the Whatcom County Bar Association and Washington Women Lawyers (or other outside entities) for input, how the Resolution was scheduled on the agenda, and whether there are similar guidelines that apply to Council Appointments and other appointments they do as a legislative body.

Elenbaas moved and Buchanan seconded that the Resolution be approved but a motion was already on the floor.

Kershner's motion that the Resolution be APPROVED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

Enactment No: RES 2022-018

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. [AB2022-211](#) Appointment to a vacancy on the Forestry Advisory Committee, commercial forest landowner position - Applicant(s): Quentin Dills

Byrd moved and Buchanan seconded that the Council Appointment be APPOINTED by acclamation.

Elenbaas asked whether Council needs to vote when there is only one applicant.

Byrd's motion that the Council Appointment be APPOINTED carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

ITEMS ADDED BY REVISION

There were no agenda items added by revision.

INTRODUCTION ITEMS

Buchanan moved to introduce items one through nine. The motion was seconded by Frazey (see votes on individual items below).

1. [AB2022-193](#) Resolution authorizing the County Executive to sign the Black Slough Comprehensive Barrier Removal Design Project grant application to the Brian Abbott Fish Barrier Removal Board (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Buchanan moved and Frazey seconded that the Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

2. [AB2022-206](#) Ordinance relating to the Growth Management Act, adopting regulations for forest practices, adding a new Whatcom County Code Chapter 20.76, and amending Chapter 20.80

Buchanan moved and Frazey seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

3. [AB2022-214](#) Ordinance adopting amendments to the Whatcom County Comprehensive Plan relating to capital facilities planning

Buchanan moved and Frazey seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

4. [AB2022-215](#) Ordinance amending the project budget for the Swift Creek Capital Projects Fund, request no. 1

Buchanan moved and Frazey seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

5. [AB2022-217](#) Resolution amending the Flood Control Zone District & Subzones 2022 budget, request no. 2, in the amount of \$110,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Buchanan moved and Frazey seconded that the Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

6. [AB2022-219](#) Ordinance amending the project budget for the Way Station Project Fund, request No. 1

Buchanan moved and Frazey seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

7. [AB2022-221](#) Ordinance amending Whatcom County Code Section 16.50.090 to incorporate changes to the C-PACER Program adopted by the state legislature in RCW 36.165.060

Buchanan moved and Frazey seconded that the Ordinance Requiring a Public Hearing be INTRODUCED FOR PUBLIC HEARING. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

8. [AB2022-224](#) Ordinance amending WCC 2.123.040 Membership - Term of Office for the Forestry Advisory Committee

Buchanan moved and Frazey seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

9. [AB2022-225](#) Ordinance amending the 2022 Whatcom County Budget, request no. 7, in the amount of \$6,246,353

Buchanan moved and Frazey seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Absent: 0

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave committee reports and other updates.

Discussion included:

- An invitation to Councilmembers to an upcoming meeting of the Business and Commerce Advisory Committee
- The letter from all the city mayors regarding a request to look at the situation we have with our jail, whether a discussion about it should go to a committee, and whether the Council should respond to the letter
- A recent visit to the Bessie Timber sale site with the Department of

Natural Resources (DNR) to learn more about DNR's active forest management plans and practices

- Volunteering at a senior center
- Concerns about public safety
- An upcoming Resolution regarding Comprehensive Plan priorities
- An upcoming meeting this week of the Climate Impact Advisory Committee
- Assessor employees accessing and respecting private property
- Forest protection and supporting a viable timber economy
- The recent loss of two great men in Whatcom County: Whatcom District 7 Assistant Fire Chief, Dean Crosswhite and Navy Seabee veteran, Walt DeKraai

Satpal Sidhu, County Executive, addressed Elenbaas' comments about Assessor employees being neighborly and respectful as they do their job.

ADJOURN

The meeting adjourned at 9:33 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: MIN2022-029

File ID:	MIN2022-029	Version:	1	Status:	Agenda Ready
File Created:	04/19/2022	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: kfelbing@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Water Work Session for April 19, 2022

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

None

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:

Attachments: Draft Minutes Water Work Session Apr 19 2022

Whatcom County Council Water Work Session

**COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010**



Minutes - Draft Minutes

**Tuesday, April 19, 2022
10:30 AM
Virtual Meeting**

VIRTUAL MEETING - VIEW ONLINE

COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Todd Donovan called the meeting to order at 10:30 a.m. in a virtual meeting.

Roll Call

Present: 5 - Barry Buchanan, Todd Donovan, Ben Elenbaas, Kaylee Galloway, and Kathy Kershner

Absent: 2 - Tyler Byrd, and Carol Frazey

Announcements**Water Resources Update**

Gary Stoyka, Public Works Department, updated Councilmembers on the following:

- The adjudication process: Cascadia Policy Solutions has developed a draft Solutions Table Charter proposal which is included in the agenda packet for this meeting
- Continued work on the Drainage Based Management process - they are coming close to wrapping up the South Fork/Nooksack River process and are about to embark on the Bertrand/Schneider Creek process
- They have selected a consultant to do the next phase of the Groundwater Model - a contract will be coming soon to Council
- They are moving forward on the domestic Water Use Efficiency (being done through the Whatcom Water Alliance) and the agricultural Water Use Efficiency process (being done internally)
- The next meeting of the Watershed Management Board is on April 28 with the topic being the Solutions Table Charter
- Work on the integrated monitoring and central data management project - they have a consultant doing phase 2 of that
- The next Water Work Session meeting date of May 17

Water Solutions Table Proposed Charter

Gary Stoyka, Public Works Department, briefed the Councilmembers on the Nooksack Watershed Solutions Table as presented in the agenda packet. He answered whether there is a sense that the Tribes are bought-in to being on the Executive Committee and the Solutions Table.

Kershner stated the proposal strikes her as being very similar to what we had hoped the Planning Unit would have accomplished or achieved.

Stoyka answered questions about whether there will be any public input on this, and the process for approval.

Elenbaas stated he would like to see this have a full public hearing at the Council level in order to have as many people weigh in as possible and *moved* to give the public an opportunity to provide input on a larger scale than in an obscure meeting that does not get noticed as well as other meetings do.

Councilmembers discussed how a hearing should take place and getting public input on who the public thinks should be seated at the table and how they are seated.

Elenbaas stated he would like to see a public hearing in a regular Council meeting and maybe schedule it in a committee at some point.

They requested that Stoyka come back with ideas of how we might get this on an evening meeting agenda to get input while it is still a proposed charter in order to have an informed decision on whether it is right or not.

Stoyka stated he could work on getting something sometime in May and will work with the Council Clerk.

Councilmembers did not vote on Elenbaas' motion.

Stoyka answered a question about the time of the upcoming Watershed Management Board Meeting.

Potential Drayton Harbor Shellfish Downgrade

Erika Douglas, Public Works Department, presented and answered what the hypothesis is for what the sources of fecal matter are when they see these issues at the mouth of the harbor, what the prevailing thought is on the accuracy of DNA testing the fecal coliform we are seeing in the samples to help us better pin point where it is coming from, how many consecutive or months of clean readings we would need for the conditional approval on Station 413 to go back to green, whether they could get to the required 30 samples sooner if they take samples more than once a month, and what this means for Drayton Harbor oysters.

South Fork Acquisitions Update

Chris Elder, Public Works Department, presented and answered what some of the funding sources might be for the Acme floodplain, how the acquisition of Stewart Mountain is going to support restoring the Nooksack,

what the goal is with the Whatcom Land Trust being the initial owner, whether this property will be public property and accessible to the public, what the plan is for the private property in the middle of the proposed Stewart Mountain Community Forest property, about how many acres in the watershed would be eligible for Lake Whatcom Acquisition Funds, and whether there would be acquisition from the Lake Whatcom side.

Discussion with WRIA 1 Planning Unit

Dan Eisses, WRIA 1 Planning Unit and Birch Bay Water and Sewer District, updated the Councilmembers on the following:

- Support for the March 22, 2022 memo from Councilmembers Frazey and Galloway regarding Comprehensive Plan priorities
- The priority in the above-mentioned memo to work towards eliminating fish passage barrier culverts
- The Whatcom Conservation District being very close to a soft opening of a conservation rebate program

Other Business

There was no other business.

Adjournment

The meeting adjourned at 11:48 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Chair

Kristi Felbinger, Minutes Transcription



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-206

File ID:	AB2022-206	Version:	1	Status:	Introduced for Public Hearing
File Created:	03/25/2022	Entered by:	JFleisch@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: jfleisch@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance relating to the Growth Management Act, adopting regulations for forest practices, adding a new Whatcom County Code Chapter 20.76, and amending Chapter 20.80

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Proposed zoning code amendments necessary to receive sole regulatory jurisdiction from DNR over Class I, II, III, and IV Forest Practices in Urban Growth Areas and Class IV - General Forest Practices countywide

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Proposed Ordinance, Exhibit A - Proposed Zoning Code Amendments, Staff Report to Planning Commission, Classes of Forest Practices, SEPA Threshold Determination Packet



Memorandum

TO: The Honorable Satpal Sidhu, Whatcom County Executive
The Honorable Whatcom County Council

FROM: Joshua Fleischmann, Planner

THROUGH: Steve Roberge, Assistant Director

DATE: March 31, 2022

SUBJECT: PLN2021-00014 – Forest Practices Transfer of Jurisdiction

This memo is intended to provide background on a docketed amendment for proposed zoning code amendments necessary to assume jurisdiction over Class I, II, III, and IV Forest Practices in Urban Growth areas, and Class IV – General Forest Practices countywide.

Substitute House Bill 1409 was passed by the 60th Legislature of Washington State during the 2007 Regular Session. This bill amended RCW 76.09.240 such that counties planning under RCW 36.70A.040 (Growth Management Act – GMA) which meet certain criteria, which Whatcom County does, are required to adopt and enforce ordinances or regulations for certain forest practices to take over regulatory jurisdiction from the Department of Natural Resources (DNR). Whatcom County meets the criteria and is required to assume jurisdiction.

Under the proposed amendments, Whatcom County would begin to regulate Class I, II, III, and IV- Special forest practices within designated Urban Growth Areas (UGAs). These forest practices are presently regulated by DNR and include activities such as commercial timber harvests and supplementary activities such as road building and construction of landings that support timber harvests, among others. Whatcom County would also become the sole regulatory agency over Class IV – General forest practices throughout the county, whereas both Whatcom County and DNR presently review these activities. Class IV – General forest practices involve timber harvest or road construction on forest lands that are being converted to another use.

Assuming regulatory jurisdiction is expected to have negligible impacts to PDS permit review capacity. Since 2008, there have been only six Forest Practice Applications (FPA) within Urban Growth Areas that have been approved by DNR, which would have been reviewed by Whatcom County if jurisdiction had already been transferred. Two of these six could continue to be reviewed by DNR if the landowner wishes to continue managing their land for active timber management, as the parcel size exceeds 20 acres. In contrast, Whatcom County has reviewed ~1,500 Land Disturbance Permits over the same time period and has the technical expertise to review these additional applications.

To coordinate transferring regulatory jurisdiction, we have provided documentation (on a DNR provided worksheet) that existing and proposed Whatcom County Code will meet State Forest Practices regulations. DNR has informally acknowledged that our proposed

amendments will allow us to assume jurisdiction. Upon adoption of the Forest Practices Transfer of Jurisdiction Ordinance, Whatcom County will provide DNR another 60-day notice of intent to begin regulating these forest practices. We propose the effective date of the amendments to regulate these forest practices to be August 1, 2022.

I look forward to discussing the merits of this recommendation with you.

**ORDINANCE NO. 2022-
RELATING TO THE GROWTH MANAGEMENT ACT; ADOPTING REGULATIONS FOR
FOREST PRACTICES; ADDING A NEW CHAPTER 20.76 WHATCOM COUNTY CODE
(WCC); AND AMENDING CHAPTER 20.80.**

WHEREAS, the Growth Management Act, chapter 36.70A RCW (GMA), requires Whatcom County (the "County") to regulate land use and development within the County's jurisdiction; and

WHEREAS, RCW 76.09.240 of the Forest Practices Act requires those counties planning under GMA with certain population and forest practices permitting thresholds to adopt and enforce regulations over the forest practices in RCW 76.09.240(1)(a)(i) and (ii); and

WHEREAS, the County meets the population and permitting thresholds in RCW 76.09.240(1)(a) of the Forest Practices Act, and therefore must adopt and enforce regulations for forest practices as described in RCW 76.09.240; and

WHEREAS, RCW 76.09.240(2) of the Forest Practices Act requires a written notification to the Department of Natural Resources and Department of Ecology sixty days prior to adoption of the development regulations; and

WHEREAS, those forest practices described in RCW 76.09.240(1)(a)(i) and (ii) of the Forest Practices Act occur on lands with a high likelihood to convert to a nonforestry use, including lands both inside and outside of urban growth areas (UGAs) as designated under RCW 36.70A.110; and

WHEREAS, RCW 76.09.460 of the Forest Practices Act requires the County to deny all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to a Washington State Department of Natural Resources' notice of conversion to a nonforestry use for a period of six years or until the actions listed in RCW 76.09.460(2) are satisfied; and

WHEREAS, RCW 76.09.470 of the Forest Practices act requires the County, upon being contacted by a landowner about that landowner's intent to convert his or her land to a nonforestry use within six years of receiving an approved forest practices application or notification under the Forest Practices Act, to take specific actions that include coordinating with the Washington State Department of Natural Resources and landowner to resolve any outstanding final order or decisions issued by the Washington State Department of Natural Resources, requiring the landowner to comply with chapter 43.21C RCW, if applicable, and assessing if the

condition of the land is in full compliance with the Whatcom County Code; and

WHEREAS, RCW 36.70A.570 of the GMA requires the County to adopt development regulations that protect public resources, are consistent with or supplement the County's critical areas regulations, require appropriate approvals for all phases of the conversion of forest lands, including clearing and grading, and are guided by the planning goals of the GMA and by the purposes and policies of the Forest Practices act when the County assumes regulation of forest practices as described in RCW 76.09.240; and

WHEREAS, on March 15, 2022, the Whatcom County Forestry Advisory Committee reviewed the proposed amendment; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on the proposed amendment was published in the Bellingham Herald on March 11, 2022; and

WHEREAS, the Whatcom County Planning Commission held a work session on the proposed amendment; and

WHEREAS, the Whatcom County Planning Commission held a public hearing on the proposed amendment and considered all testimony on March 24, 2022; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation; and

WHEREAS, the Whatcom County Council held a work session in the Climate Action and Natural Resources Committee on _____; and

WHEREAS, the Whatcom County Council held a public hearing on the proposed amendment and considered all testimony on _____; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. An application for zoning code amendments was received by Whatcom County on October 19, 2021
2. The proposed amendments were docketed by the Whatcom County Council on March 8, 2022
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on February 14, 2022. The associated

comment period ended February 28, 2022, and the appeal period concluded March 10, 2022.

4. The Whatcom County Forestry Advisory Committee reviewed and recommended for approval the draft code, as amended, on March 15, 2022.
5. The Planning Commission held a duly noticed public hearing on the proposed amendments on March 24, 2022.
6. Notice of the proposed amendment was sent to the Department of Commerce on February 10, 2022.
7. On February 10, 2022, the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.
8. The proposed amendment will have an effective date of August 1, 2022.
9. The Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.
10. Goal 2D: Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). DNR will not process the Class IV - General permit until a Land Disturbance Permit is issued by Whatcom County. The DNR permit process takes a minimum of 15 days. Upon transfer of jurisdiction, a DNR permit will not be required, saving applicants a minimum of 15 days of permit processing time.

11. Goal 2D: Refine the regulatory System to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-4: Coordinate permitting requirements among jurisdictions to minimize duplication and delays.

Upon adoption of the proposed code amendments, DNR will no longer review Class IV – General Forest Practices, as Whatcom County will have sole regulatory jurisdiction. The DNR permit process takes a minimum of 15 days. Eliminating the requirement for a DNR permit will save applicants a minimum of 15 days of permit processing time

12. Goal 3A: Minimize the time required for processing housing-related development and construction permits in the interest of overall cost reduction.

Policy 3A-1: Streamline and simplify existing and proposed permitting processes.

Currently, Class IV – General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV – General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

13. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-1: Work with state and federal agencies to coordinate and streamline environmental review.

As part of accepting regulatory jurisdiction, Whatcom County has coordinated with the Department of Natural Resources, providing documentation that demonstrates that Whatcom County Code meets the requirements for accepting jurisdiction over these forest practices. DNR will review this documentation, in coordination with the Department of Ecology, and provide Whatcom County with a memorandum acknowledging Whatcom County has met the requirements for receiving jurisdiction. Upon completion of this process, Class IV - General Forest Practice permits will no longer be processed by DNR and these activities will be reviewed solely by Whatcom County, eliminating permit delays and additional costs presently experienced by applicants.

14. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-6: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

15. Goal 8H: Support increasing the viability of Whatcom County's forest products industry.

Policy 8H-1: Support improving the efficiency and flexibility of state and local environmental regulations affecting the forest products industry, in order to assure environmental protection and improve predictability for the forest products industry while minimizing the regulatory costs to forest landowners.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will result in more efficient permit issuance, as DNR will no longer review these activities. The DNR Class IV - General permit process takes a minimum of 15 days and costs \$1,500. Upon transfer of jurisdiction, a DNR permit will no longer be required, saving applicants a minimum of 15 days of permit processing time as well as permitting fees.

CONCLUSIONS

1. The subject zoning text amendments are consistent with the approval criteria of WCC 22.10.060.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code shall be amended as shown in Exhibit A, effective on August 1, 2022.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this _____ day of _____, 2022

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Royce Buckingham
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____

Exhibit A

**EXHIBIT A: PROPOSED AMENDMENTS TO THE WHATCOM COUNTY CODE TO
TRANSFER REGULATORY JURISDICTION OF CERTAIN FOREST PRACTICES FROM
THE DEPARTMENT OF NATURAL RESOURCES TO WHATCOM COUNTY**

Title 20 ZONING

Chapter 20.76 Forest Practices

Sections:

<u>20.76.010</u>	<u>Authority and purpose</u>
<u>20.76.020</u>	<u>Definitions</u>
<u>20.76.030</u>	<u>Applicability</u>
<u>20.76.040</u>	<u>Exemptions</u>
<u>20.76.050</u>	<u>Relationship to other regulatory requirements</u>
<u>20.76.060</u>	<u>Administration and enforcement</u>
<u>20.76.070</u>	<u>Right of entry</u>
<u>20.76.080</u>	<u>Notification to the Washington State Department of Revenue.</u>
<u>20.76.100</u>	<u>Forest practices - permit required.</u>
<u>20.76.110</u>	<u>Conversion option harvest plan (COHP)</u>
<u>20.76.220</u>	<u>Six-year development moratorium</u>

20.76.010 Authority and purpose

This chapter is established pursuant to the Forest Practices Act, chapter 76.09 RCW, which provides for the County's regulation and enforcement of certain forest practices on lands intended for conversion to non-forestry uses within the County's jurisdictional boundaries. This chapter also sets forth procedures and criteria for the Department of Planning and Development Services (Department) review of Conversion Option Harvest Plans (COHPs) and the Department's imposition of the six-year development moratorium and subsequent development requirements described in WCC 20.76.220.

20.76.020 Definitions

The definitions contained in RCW 76.09.020 of the Forest Practices Act and in WAC 222-16-010 and 222-16-050 of the Forest Practice Act's implementing regulations shall apply to all terms used in this chapter, provided that the definitions contained in Whatcom County Code shall be applicable where not in conflict with the Forest Practices Act and its implementing regulations.

20.76.030 Applicability

This chapter shall take effect on August 1, 2022. This chapter applies to the following:

(1) The following forest practices on lands within the County's jurisdiction:

- (a) Forest practices classified by WAC 222-16-050 as Class I, II, III, IV-General, and IV-Special that are within urban growth areas designated under RCW 36.70A.110, except for forest practices on ownerships of contiguous forestland equal to or greater than 20 acres where the applicant provides to the Department and the Washington State Department of Natural Resources (DNR)

- a written statement of intent, signed by the forest landowner(s), not to convert to a use other than growing commercial timber for 10 years. This statement must be accompanied by either:
 - (i) A written forest management plan acceptable to the Department; or
 - (ii) Documentation that the land is enrolled as forestland of long-term commercial significance under the provisions of RCW 84.33;
- (b) Forest practices classified by WAC 222-16-050 as Class IV-General, outside urban growth areas designated under RCW 36.70A.110, involving either timber harvest or road construction, or both, on:
 - (i) Forestlands that are being converted to another use; or
 - (ii) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development.
- (2) Review of conversion option harvest plans described in WCC 20.76.110
- (3) Imposition of the six-year development moratorium and subsequent development requirements described in WCC 20.76.220.

20.76.040 Exempt activities

- (1) The provisions of this chapter shall not apply to the following Class I Forest Practices.
 - (a) Culture and harvest of Christmas trees and seedlings.
 - (b) Road maintenance, including placement of new gravel, within the roadway. Roadway is defined by the Whatcom County Public Works Development Standards, Chapter 5 - Road Standards.
 - (c) Native tree planting and seeding.
 - (d) Loading and hauling timber from landings or decks.
 - (e) Emergency fire control and suppression.
 - (f) Forestry research studies and evaluation tests by an established research organization.

20.76.050 Relationship to other regulatory requirements

- (1) Compliance with federal and state regulations. Applications filed pursuant to this chapter shall comply with all applicable federal and state regulations, including but not limited to RCW 76.09 and WAC 222. Where other agencies or entities have concurrent jurisdiction over the proposed forest practice or development, and the Director determines that the permit conditions imposed by such agencies or entities satisfy the requirements of this chapter, then those permit conditions may be relied upon for the purpose of determining compliance with the requirements of this chapter.
- (2) Compliance with other provisions of the Whatcom County Code. Applications and plans filed pursuant to this chapter shall comply with all applicable provisions of the Whatcom County Code.

20.76.060 Administration and enforcement

- (1) Permit, recording, and review fees associated with this chapter shall be in accordance with the current Whatcom County Council's adopted Unified Fee Schedule.
- (2) The enforcement of this chapter shall be under WCC 20.94.

20.76.070 Right of entry

By submitting an application under this chapter, the applicant consents to entry upon the subject site by the Director during regular business hours for the purposes of making reasonable inspections, to verify

information provided by the applicant, and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this chapter.

20.76.080 Notification to the Washington State Department of Revenue

The Director shall notify the Washington State Department of Revenue (DOR) within 60 days of approving a forest practices permit issued under chapter 20.80. Such notification shall include the following information:

- (1) Landowner's legal name, address, and telephone number;
- (2) Decision date of permit; and
- (3) Parcel number and legal description (section, township, and range) of the subject site.

20.76.100 Forest Practices - Permit Required.

- (1) An approved forest practices permit shall be obtained from the Department prior to conducting any forest practices described in WCC 20.76.030(1).
- (2) The Department shall process a forest practices permit application according to the procedures for a Type 1 administrative decision under WCC 22.05 unless submitted concurrently with a Type 2 application under WCC 22.05, in which case the forest practices permit application shall be consolidated and processed as a Type 2 permit application. Applications for a forest practices permit shall be submitted and reviewed in compliance with the requirements in WCC 22.05 and may be processed concurrently with other development applications.
- (3) The Department shall not issue a forest practices permit if the subject site has been subject to a notice of conversion to nonforestry use under RCW 76.09.060 during the six-year period prior to the submission of the permit application.

20.76.110 Conversion Option Harvest Plan (COHP)

- (1) Optional process. As an alternative to applying for a forest practices permit under WCC 20.76.100, an applicant may choose to submit an application for a conversion option harvest plan (COHP), as defined in WCC 20.97.086, that, if approved, may preserve the landowner's option to convert forest land to a non-commercial forest use without subjecting the site to the six-year development moratorium in WCC 20.76.220.
- (2) General requirements for a COHP approval to the Department.
 - (a) An application for a COHP approval shall be submitted in compliance with the submittal requirements in WCC 22.05.
 - (b) An application for COHP approval shall be submitted prior to submittal of an application for development, and prior to conducting forest practices on the subject site.
 - (c) The Department shall review applications for COHP approvals for consistency with applicable County regulations and policies, and may inspect the subject site prior to rendering a decision.
- (3) COHP Review and Approval Process
 - (a) The Department shall review applications for COHP approvals for consistency with applicable County regulations and policies, and may inspect the subject site prior to rendering a decision.
 - (b) The applicant has the burden of proving that the application for COHP approval complies with all applicable laws.

- (c) The Department may approve, approve with conditions, or deny an application for a COHP approval.
- (d) The Department's approval of a COHP shall not release the applicant from the requirement to reforest a site under chapter 222-34 WAC.
- (e) An appeal of the Department's decision on an application for COHP approval must state the basis for the appeal and be submitted in writing to the Director within 30 days of the Department's decision date. The Director shall issue a written decision on the appeal to the landowner and to the appellant within 30 calendar days of receipt of the appeal.
- (4) Recording obligation. After the Department has approved the COHP, the applicant shall record it with the County Auditor. The COHP shall be binding upon the landowner and the landowner's successors in interest.
- (5) Duration of a COHP approved by the Department. The Department-approved COHP shall be valid for a period of two years from its approval date.

20.76.220 Six-year development moratorium

- (1) Applicability. The Department shall impose a six-year development moratorium on a site when any of the following occurs:
 - (a) The Department receives a notice of conversion to nonforestry uses under RCW 76.09.060 from DNR.
 - (b) The Department discovers a violation of a forest practices permit.
 - (c) The Department becomes aware that a landowner converted their land to a nonforestry use without the proper permits or approvals that are required under this chapter.
 - (d) The Department discovers that any condition of an approved conversion option harvest plan (COHP) has been violated.
 - (i) For the purposes of this subsection, a violation of a COHP means exceeding the conditions of the COHP such as, but not limited to:
 - (A) Enlarging the area approved to be harvested, or increasing the volume of timber approved to be harvested; or
 - (B) Engaging in forest practices within a critical area or a critical area buffer as defined in WCC 16.16.
 - (ii) If the Department discovers that any condition of a COHP is violated, denial of applications for permits or approvals shall be recorded from the date the associated forest practice approval became effective.
- (2) Duration of the six-year development moratorium. The Department must deny all applications for permits or approvals:
 - (a) For a period of six years from the approval date of the applicable forest practices application/notification or the date that the Department was made aware of the harvest activities; or
 - (b) Until the following activities are completed for the land that is the subject of the notice of conversion:
 - (i) Full compliance with the State Environmental Policy Act (RCW 43.21C), if applicable;
 - (ii) The DNR has notified the Department that any outstanding final orders or decisions it has issued concerning the site have been resolved.

- (iii) The Department determines that the subject site is in full compliance with the Whatcom County Code. If full compliance is not found, the landowner must submit to the Department a mitigation plan to address the violations. Required mitigation plans must be prepared by the landowner and approved by the Department. Once approved, the mitigation plan must be implemented by the landowner.
- (3) Notification to the landowner of imposition of the six-year development moratorium.
 - (a) The Department shall notify the landowner when the following occurs:
 - (i) The Department receives a notice of conversion to a nonforestry use from the DNR for the subject site; or
 - (ii) The Department has identified a violation of this chapter as described in subsection (1) of this section.
 - (b) The notification shall contain the following:
 - (i) Name of landowner and tax parcel number;
 - (ii) Basis for the moratorium;
 - (iii) The effective date of the moratorium; and
 - (iv) Description of the appeal process.
- (4) Extent of application of the six-year development moratorium. The six-year development moratorium imposed by the Department shall apply to an entire site, unless the applicant can demonstrate that the area subject to forest practices activities complies with all provisions of the Whatcom County Code. Where such compliance is demonstrated, the moratorium shall only apply to those portions of the site that were subject to the actions described in subsection (1) of this section.
- (5) Appeals.
 - (a) Appeals of a notice of conversion to a nonforestry use issued by the DNR can be appealed to the Washington State Pollution Control Hearings Board under- RCW 43.21B.
 - (b) Appeals of the Department's imposition of the six-year development moratorium resulting from actions described in subsections (1)(b), (c), (d) of this section can be appealed under the procedures in WCC 22.05.
- (6) Recording of the six-year development moratorium. The Department shall record the six-year development moratorium with the County Auditor after the appeal deadline to challenge the moratorium has expired, or after all appeals have been resolved if any appeals have been filed.

Chapter 20.20 Urban Residential (UR) District

20.20.200 Prohibited uses.

...

20.20.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.20.208 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.22 Urban Residential - Medium Density (URM) District

20.22.200 Prohibited uses.

...

20.22.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.22.208 Slash burning, when located within an Urban Growth Area.

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Chapter 20.24 Urban Residential - Mixed (UR-MX) District

20.24.200 Prohibited uses.

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20.24.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.24.208 Slash burning, when located within an Urban Growth Area.

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Chapter 20.32 Residential Rural (RR) District

20.32.200 Prohibited uses.

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20.32.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.32.208 Slash burning, when located within an Urban Growth Area.

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Chapter 20.36 Rural (R) District

20.36.200 Prohibited uses.

...

20.36.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.36.204 Slash burning, when located within an Urban Growth Area.

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Chapter 20.40 Agriculture (AG) District

20.40.200 Prohibited uses.

...

20.40.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.40.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.42 Rural Forestry (RF) District

20.42.200 Prohibited uses.

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20.42.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.42.204 Slash burning, when located within an Urban Growth Area.

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Chapter 20.44 Recreation and Open Space (ROS) District

20.44.200 Prohibited uses.

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20.44.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.44.204 Slash burning, when located within an Urban Growth Area.

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Chapter 20.59 Rural General Commercial (RGC) District

20.59.250 Prohibited uses.

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20.59.253 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.59.254 Slash burning, when located within an Urban Growth Area.

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Chapter 20.60 Neighborhood Commercial Center (NC) District

20.60.200 Prohibited uses.

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20.60.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.60.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.61 Small Town Commercial (STC) District

20.61.200 Prohibited uses.

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20.61.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.61.208 Slash burning, when located within an Urban Growth Area.

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Chapter 20.62 General Commercial (GC) District

20.62.200 Prohibited uses.

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20.62.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.62.204 Slash burning, when located within an Urban Growth Area.

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Chapter 20.63 Tourist Commercial (TC) District

20.63.200 Prohibited uses.

...

20.63.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.63.204 Slash burning, when located within an Urban Growth Area.

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Chapter 20.64 Resort Commercial (RC) District

20.64.200 Prohibited uses.

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20.64.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.64.208 Slash burning, when located within an Urban Growth Area.

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Chapter 20.66 Light Impact Industrial (LII) District

20.66.200 Prohibited uses.

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20.66.204 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.66.205 Slash burning, when located within an Urban Growth Area.

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Chapter 20.67 General Manufacturing (GM) District

20.67.200 Prohibited uses.

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20.67.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.67.204 Slash burning, when located within an Urban Growth Area.

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Chapter 20.68 Heavy Impact Industrial (HI) District

20.68.200 Prohibited uses.

...

20.68.204 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.68.205 Slash burning, when located within an Urban Growth Area.

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Chapter 20.69 Rural Industrial and Manufacturing (RIM) District

20.69.200 Prohibited uses.

...

20.69.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.69.204 Slash burning, when located within an Urban Growth Area.

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Chapter 20.70 Airport Operations (AO) District

20.70.200 Prohibited uses.

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20.70.210 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.70.211 Slash burning, when located within an Urban Growth Area.

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Chapter 20.80 Supplementary Requirements

20.80.730 **Land clearing.**

20.80.731 **Purpose.**

The purpose of this section is to avoid or minimize impacts of clearing activity to adjacent and downstream public or private property and to protect receiving water bodies. The regulations contained in this section implement this goal by providing a reasonable standard for clearing land in Whatcom

County. It is also the purpose of this section to establish a eCounty review process for larger clearing projects to ensure these regulations are met. ~~It is also the purpose of this section to provide procedures and review criteria for clearing activity in connection with conversion option harvest plans and implementing, exempting and removing development moratoria.~~

20.80.732 Applicability.

All clearing activities including clearing of forest land, ~~Class IV General forest practices applications, nonconversion forest practice applications with approved conversion option harvest plans (COHPs), and associated development moratoria~~ shall be subject to the provisions of the land clearing section unless specifically exempted in WCC 20.80.733. No clearing activity approval shall be issued by the eCounty prior to meeting the requirements set forth in ~~the Whatcom County Development Standards~~ this chapter and only when in compliance with federal, state and local regulations, including, but not limited to WCC Chapter 16.16, ~~the (Critical Areas) Ordinance~~, WCC Chapter 16.08 ~~(the Whatcom County SEPA Ordinance)~~, Washington State Forest Practices pursuant to WAC Title 222, forest practices pursuant to WCC 20.76, and WCC Title 23 ~~the (Shoreline Management Program)~~. Administrative provisions and technical standards for implementing these regulations shall be contained in WCC 22.05 ~~the Whatcom County Development Standards, Chapter 3, Land Clearing.~~

20.80.733 Exemptions.

Any clearing activity that meets the following criteria shall be exempt from the clearing requirements of this chapter:

- (1) The proposed activity does not involve the conversion of forest land, is outside critical areas and associated buffers, and is exclusively related to agriculture as defined in this ~~¶~~ Title; or
- (2) The proposed activity consists of nonconversion forest practices regulated by the DNR, ~~other than Class IV General forest practices on platted land, and other than those with an approved COHP regulated under Chapter 76.09 RCW; or~~
- (3) The proposed activity is surface mining regulated under Chapter 78.44 RCW.

20.80.734 General Review Thresholds.

County review and approval shall be required prior to a clearing activity when any of the following land clearing thresholds have been reached. If the clearing activity does not meet the threshold criteria, eCounty review is not required. However, the owner is still subject to, and must comply with, the minimum requirements established in this chapter ~~and in the Whatcom County Development Standards~~. Review thresholds and additional requirements for water resource special management areas are located in WCC 20.80.735.

- (1) Five Thousand Square Foot Threshold on 30% Percent Slopes. The eCounty shall review all proposed clearing activities when a cumulative area of 5,000 square feet or greater of clearing activity is proposed to take place on slopes 30% percent or greater in gradient.
- (2) One-Acre Threshold in ~~Urban Residential, Commercial, Rural Residential Zoning Districts and Rural and Industrial Zoning Districts within the NPDES Phase II Area Boundary~~ certain areas. The eCounty shall review all proposed clearing activities ~~which that~~ are one acre or greater, including projects less than one acre that are part of a larger common plan of the development, in the following zoning districts where the slope is less than 30% percent in gradient:

- Urban Residential.
 - Commercial.
 - Rural Residential.
 - Rural within the NPDES Phase II area boundaries, as delineated at the time that the eCounty determines that the development application is complete.
 - Industrial within the NPDES Phase II area boundaries, as delineated at the time that the eCounty determines that the development application is complete.
- (3) Two-Acre Threshold in Rural Zoning Districts outside NPDES Phase II Area Boundaries. The county shall review all proposed clearing activities which are two acres or greater when the activities are proposed to take place in Rural Zoning Districts outside NPDES Phase II area boundaries and the slope is less than 30 percent in gradient.
- (4) Critical Areas and Associated Areas. The county shall review all clearing activities within a critical area or critical area buffer, and all clearing activity greater than 500 square feet within 200 feet of a waterbody regulated under WCC Title 23, or within 200 feet of a wetland habitat conservation area (HCA), frequently flooded area, or geological hazard regulated under WCC Title Chapter 16.16.
- ~~(5) Conversion from Forest Use. The county shall review all clearing activities that meet the definition of a conversion from a forest use to another land use pursuant to WCC 20.97.085.~~

20.80.735 Water Resource Special Management Areas.

The purpose of a water resource special management area is to establish a more stringent standard for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions. Implementation of best management practices, including phased clearing, tree retention and seasonal clearing limitations, is intended to limit the amount of exposed soils on site that are susceptible to erosion at any one time, thereby improving site stability during development and reducing potential for transport of dissolved pollutants and sediments off site. Preservation of existing trees on site also reduces the quantity and maintains the quality of stormwater leaving a site during and after development activities by encouraging interception, infiltration, and evapotranspiration of rainfall and surface runoff.

Whatcom County shall establish the following geographic areas as water resource special management areas:

- Drayton Harbor watershed;
 - Lake Padden watershed;
 - Lake Samish watershed; and
 - Birch Bay watershed.
- (1) Water Resource Special Management Area Review Thresholds. County review and approval shall be required for clearing activities which exceed the following thresholds. If the clearing activity does not meet the threshold criteria, eCounty review is not required. However, the owner is still subject to, and must comply with, the minimum requirements established in this chapter and ~~in the~~ Whatcom County Development Standards the Source Control BMPs established in the most current version of the Department of Ecology Stormwater Management Manual for Western Washington.

- (a) Lake Samish and Lake Padden Watersheds. County review and approval shall be required for all clearing activities associated with a fill and grade permit, building permit, or other development proposal. Clearing activities which are not associated with a development permit shall require County review if they are:
 - (i) Five thousand square feet or greater during the dry season, June 1st through September 30th; or
 - (ii) Five hundred square feet or greater during the wet season, October 1st through May 31st.
- (2) Within water resource special management areas, clearing activity must conform to the following conditions:
 - (a) Temporary erosion and sediment control shall be installed and inspected prior to any clearing activity. The ~~technical administrator~~ Director shall conduct periodic inspections to ensure the integrity of temporary erosion and sediment controls. Temporary erosion and sediment control measures include, but are not limited to, installation of silt fencing, installation of check dams, covering of excavation piles, and mulching of exposed soils, as specified in the ~~Whatcom County Development Standards~~ most current version of the Department of Ecology Stormwater Management Manual for Western Washington.
 - (b) **Phased Clearing.** Construction activities and clearing activities shall be phased to limit the amount of exposed soil that occurs at any one time, if determined to be appropriate by the ~~technical administrator~~ Director, based on site characteristics or constraints including, but not limited to, slopes, proximity to shorelines and wetlands. A phased clearing plan may be required, ~~and if so. A phased clearing plan, if required,~~ shall be submitted for review and approval by the ~~technical administrator~~ Director prior to any clearing activity and shall contain a detailed construction schedule or timeline.
 - (c) **Soil Stabilization.** All disturbed areas shall be provided with soil stabilization within two days of the time of disturbance. The ~~technical administrator~~ Director may approve an exemption to this requirement when a tree canopy area retention plan includes a soil stabilization plan. This plan component must specifically detail erosion and sediment control and stormwater runoff measures that provide runoff control equal to or greater than the protection provided by the standard two-day soil stabilization requirements of this section.
 - (d) **Seasonal Clearing Activity Limitations.** In the Lake Samish and Lake Padden watersheds, clearing activity, as defined in WCC 20.97.054, that will result in exposed soils exceeding 500 square feet shall not be permitted from October 1st through May 31st; provided, that:
 - (i) In addition to the clearing activities exempted under WCC 20.80.733, the ~~zoning administrator~~ Director may approve an exemption to this requirement for the following activities:
 - (A) Routine maintenance and repair of erosion and sediment control measures;
 - (B) Activities located at or waterward of the ordinary high water mark subject to state, federal, and/or local (per Chapter 16.16 WCC and/or WCC Title 23) ~~conditions of approval~~ requirements, requiring including commencement of clearing activity during the wet season, as defined in subsection (1)(a)(ii) of this section, for purposes of minimizing surface water disturbance and site inundation by high water or wave action;

- (C) Activities necessary to address an emergency that presents an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this section. Upon abatement of the emergency situation, the clearing activity shall be reviewed for consistency with this chapter and may be subject to additional permit requirements; provided, that the applicant shall make a reasonable attempt to contact the ~~zoning administrator~~ Director prior to the activity. When prior notice is not feasible, notification of the action shall be submitted to the ~~Director zoning administrator~~ as soon as the emergency is addressed and no later than two business days following such action. Emergency construction does not include development of new permanent protective structures where none previously existed.
- (ii) To ensure compliance with subsection (2)(e) of this section, ~~Whatcom County planning and development services~~ the Director shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Samish or Lake Padden watersheds within two weeks prior to the watershed seasonal closure on October 1st.
- (iii) Soil disturbance associated with an exempt clearing activity shall be minimized to the maximum extent practicable. The ~~Director zoning administrator~~ shall have the authority to condition an exempt activity to ensure that temporary erosion and sediment control measures will be implemented.
- (iv) An exemption from the seasonal land clearing requirements of this section does not grant authorization for any work to be done in a manner that does not comply with other provisions of this chapter or other applicable development regulations.
- (e) **One Hundred Fifty Percent Violation Fines.** When a violation occurs in an area designated as a water resource special management area, the total fine assessment shall be increased to 150 percent of the standard penalty as provided for in Chapter 20.94 WCC, Enforcement and Penalties.

20.80.736 Permit approval and inspection process.

~~If~~ When ~~e~~County review and approval is required to clear land, the ~~e~~County shall establish conditions for approval through one of the following permits:

- (1) **Project Permit.** When clearing activity is proposed as a part of a development proposal, the submittal requirements contained in WCC 22.05 ~~the Whatcom County Development Standards~~, including temporary and permanent erosion control measures, must be submitted by the permit applicant and approved by the ~~e~~County as part of a project permit application prior to any clearing activity. Under this condition, a separate clearing permit shall not be required. Erosion control inspections shall be required as a condition of the building permit at the time of footing inspection sign off. If the site is subject to WCC 20.80.735, the provisions of WCC 20.80.735(2)(a) shall apply.
- (2) **Clearing Permit.** A clearing permit shall be required when a clearing activity meets the established threshold(s) and is the only activity taking place and when no other project permit is required by the ~~e~~County for the proposal. Under this condition, submittal requirements contained in ~~the WCC 22.05~~ Whatcom County Development Standards, Chapter 3, must be submitted with the clearing permit application. Clearing activities ~~which that~~ qualify as conversions require additional review pursuant to subsections (3)(a) through (c) of this section.

(3) ~~Forest Practices Conversion Land Clearing Permit consistent with WCC 20.76.~~

- ~~(a) A forest conversion land clearing permit is required by Whatcom County when a conversion as defined by WCC 20.97.085 is desired. This permit in no way exempts the applicant from any DNR permit requirements.~~
- ~~(b) All applications shall comply with the requirements of Whatcom County Development Standards, Chapter 3 – Land Clearing, Section 304 – Review and Approval Requirements (E)(1) through (3), Submittal Requirements, and DNR Forest Practice Rules.~~
- ~~(c) A signed memorandum of agreement shall be submitted by the landowner which shall state if development activity is planned to take place within 36 months of the date of application. The information contained in the application will provide the administrator with additional basis for conditioning the clearing activity or determining if harvesting of the site would be more appropriate after preliminary or final development approval.~~
 - ~~(i) If the applicant declares that no development activity is anticipated within 36 months of the date of application, in addition to all other conditions as included in Whatcom County Development Standards, Chapter 3 – Land Clearing, Section 304 – Review and Approval Requirements (E)(1) through (3), and DNR Forest Practice Rules, the following conditions will apply:~~
 - ~~(A) Replanting according to Chapter 222-34 WAC or stabilization of the site is required within the first growing season;~~
 - ~~(B) No site grubbing will be allowed other than minimal grubbing to accommodate any temporary roads or landings required for timber harvest;~~
 - ~~(C) No development permits will be issued for a period of 18 months from the date of the clearing application other than those for one approved single-family residence per lot of record.~~

20.80.737 Land clearing requirements.

- (1) **Site Containment.** Significant amounts of ~~e~~Erosion, sediment, and other impacts resulting from any clearing activity shall be contained on the site and may require temporary erosion/sedimentation control measures before, during, and immediately following clearing. All clearing activity requiring an approval must comply with the requirements of this chapter ~~and those of the Whatcom County Development Standards, Chapter 3.~~
- (2) **Hazards.** Clearing activities shall not result in off-site physical damage nor pose a danger or hazard to life or property on- or off-site.
- (3) **Site-Specific Requirements.** Additional site-specific requirements may be established after a site visit by the ~~e~~County. These requirements shall be based on specific site conditions and are limited to timing limitations, additional temporary erosion and sedimentation control, and/or the mitigation of hazardous or potentially hazardous conditions that pose a physical or environmental threat on- or off-site.
- (4) **Slash Removal in Urban Zoning Districts.** In urban zoning districts slash shall be ~~either removed from the site, or~~ chipped and spread across the site within one year of project completion, ~~or burned in compliance with the requirements of the Northwest Clean Air Agency Pollution Authority.~~
~~Note: Burning of slash within urban growth areas may be subject to the provisions of RCW 70.94.743.~~

~~(5)~~(4) **Maintaining Established Buffers.** Buffers as identified in the clearing permit, WCC 20.80.736(1) or (2) or Forest Practices permit, WCC 20.76.110~~20.80.739~~, shall be left undisturbed unless express permission for clearing activity or tree removal is provided by the eCounty~~and the DNR where an application is required by the DNR~~. When approved by the eCounty~~and/or the DNR~~, tree removal from buffers should be kept to a minimum. Unauthorized tree removal from established buffers will result in an assessed penalty at a rate of twice the value of the merchantable timber. In the event of a dispute between the landowner and the eCounty over the established value, an assessment will be made by a professional forester or arborist whose selection will be made by mutual agreement between the eCounty and the landowner. The fee for the services of the professional forester or arborist shall be paid by the landowner or responsible party.

~~(6)~~(5) A clearing activity will be considered to be complete once the site has been revegetated and stabilized.

~~20.80.738 — Development moratoria — Implementation, removal, and exceptions.~~

- ~~(1) Development Moratorium.~~ The purpose of this section is to provide the criteria for imposing a development moratorium. It also provides standards for the hearing examiner to remove a six-year development moratorium, and for the director of the planning and development services department to authorize the construction of one single family dwelling unit on a site that is subject to a six year development moratorium.
- ~~(a) Actions That Result in a Development Moratorium.~~ The following actions shall result in a six year development moratorium being imposed by the director of the planning and development services department or his/her designee:
- ~~(i) Conversion of any land covered by a DNR forest practices application or notification where a conversion is not declared;~~
 - ~~(ii) Any property that has been harvested under a DNR forest practice application or notification without an associated COHP approval;~~
 - ~~(iii) Timber harvesting on a parcel or parcels without a forest practices application or notification;~~
 - ~~(iv) The violation of a COHP or a county forest conversion land clearing permit where the following situations exist:~~
 - ~~(A) The violation results in moderate on- or off-site impacts that require mitigation, but are not reasonably addressed by the violator within the time allotted by the technical administrator; or~~
 - ~~(B) The violation results in severe on- or off-site impacts of such magnitude or type that the technical administrator determines that professional assistance is necessary to mitigate the impacts.~~
- ~~(b) Consequences of a Development Moratorium.~~
- ~~(i) Whatcom County shall suspend review of any application for development of land which is, or becomes, subject to a six year development moratorium. The suspension of application review does not constitute a stay of performance timelines as included in any ordinances or permit conditions associated with the site that is subject to a six year moratorium.~~
 - ~~(ii) Whatcom County shall not accept applications for any development of land which is subject to a six year moratorium.~~

- ~~(iii) A development moratorium imposed by Whatcom County shall extend to the harvest area including the roads indicated in the forest conversion or forest practices application or COHP. If no forest practices permit or COHP was issued, the moratorium shall apply to the entire parcel.~~
- ~~(iv) Prior to any development permit application, the property owner shall be required to submit a forest conversion land clearing permit application on land that was cleared without a forest practices application or notification, without an approved COHP, or in violation of a DNR issued forest practices permit.~~
- ~~(v) Whatcom County shall notify the appropriate state agency if the county becomes aware of forest practices that have been initiated on a parcel without an approved forest practices application or notification.~~
- ~~(c) Effective Date of Moratorium:~~
 - ~~(i) The six-year development moratorium shall be imposed from the effective date of the applicable forest practices application; or~~
 - ~~(ii) If forest practices occur on a site without the appropriate permit, a six-year development moratorium shall be imposed from the date the unpermitted forest practices were documented by Whatcom County or the DNR; or~~
 - ~~(iii) If a condition of a COHP approval is substantively violated, in the opinion of the technical administrator, a six-year development moratorium shall be imposed from the date the violation was documented by the county.~~
- ~~(2) Request for Removal of Development Moratorium. A development moratorium may be considered for removal by the hearing examiner when all of the following requirements are met:~~
 - ~~(a) Public Hearing Required:~~
 - ~~(i) The county shall set a date for public hearing before the examiner pursuant to Chapter 22.05 WCC after all the requests for additional information or plan corrections have been satisfied and the necessary components have been received as required for a complete application.~~
 - ~~(ii) The public hearing shall follow the procedures set forth in Chapter 22.05 WCC.~~
 - ~~(b) Review Criteria. The examiner shall consider the removal of a development moratorium when the following criteria are met:~~
 - ~~(i) The forest practices conducted on the site comply with requirements of Chapter 222-24 WAC, Road Construction and Maintenance, Chapter 222-30 WAC, Timber Harvesting, and any applicable county codes or regulations. When more than one rule, regulation, or code can be applied to a harvest, then the more stringent requirements shall be adhered to.~~
 - ~~(ii) Any required mitigation plan has been completed or the performance thereof has been adequately bonded.~~
 - ~~(iii) Any bonding required as part of a mitigation requirement has been established to county satisfaction.~~
 - ~~(iv) The site, when required by WCC 20.80.736(3)(c)(i)(A) or 20.80.739, shall have been reforested in accordance with the requirements set forth in Chapter 222-34 WAC.~~

- ~~(v) Payment has been made of all other fees, penalties, liens, or taxes owed to the county which have been assigned to the subject parcel including reimbursement of any county expenses incurred relating to enforcement and/or preparation for the waiver hearing.~~
- ~~(vi) All permit conditions have been addressed.~~
- ~~(vii) Neither the applicant nor any person who acted in privity with the applicant:~~
 - ~~(A) Intended to circumvent any requirement of this section or the Forest Practice Act or regulations by taking the actions for which the moratorium was imposed; or~~
 - ~~(B) Has engaged in a pattern or practice of violations of any applicable regulations.~~
- ~~(c) Approval.~~
 - ~~(i) The hearing examiner shall review all requests for the removal of a development moratorium, any comments received, and applicable county regulations or policies and may inspect the property prior to rendering a decision.~~
 - ~~(ii) The hearing examiner may approve an application for a request to remove a development moratorium, approve the application with conditions, require modifications of the proposal to comply with specified requirements of local conditions, or deny the application if it fails to comply with requirements of this section.~~
- ~~(d) Required Written Findings and Determinations. Removal of a development moratorium may be approved by the examiner if the following findings can be made regarding the proposal and are supported by the record:~~
 - ~~(i) The removal of the six year development moratorium will not be detrimental to the public health, safety, and general welfare.~~
 - ~~(ii) The removal of the six year development moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.~~
 - ~~(iii) The removal of the six year development moratorium will not result in significant adverse environmental impacts.~~
 - ~~(iv) The removal of the six year development moratorium is consistent with the review criteria established in subsections (2)(b)(i) through (vii) of this section.~~
 - ~~(v) The removal of the six year development moratorium is consistent and compatible with the goals, objectives, and policies of the Comprehensive Plan, appropriate community plans or subarea plans, and the provisions of this section.~~
- ~~(3) Request for Single-Family Dwelling Exception. The director of the planning and development services department may administratively grant an exception to the mandatory six-year development moratorium to allow the construction of one single family dwelling unit and associated accessory structures pursuant to the following standards:~~
 - ~~(a) General Requirements.~~
 - ~~(i) The area that is permitted to be developed pursuant to this administrative exception shall not exceed one acre in size unless site and/or well and septic constraints require a larger area, in which case the area developed is not to exceed two acres. Access roads shall not be included in the total area permitted to be developed.~~
 - ~~(ii) A right to forestry disclosure statement as provided for in WCC 14.04.030(B) will be signed by the owner and subsequent purchasers, and recorded as per WCC 14.04.030(A)(1). This disclosure statement is not required in urban growth areas (UGAs) unless the forest practice~~

- ~~occurs on a parcel adjacent to lands designated as forest lands of long-term commercial significance under Chapter 36.70A RCW.~~
- ~~(iii) Upon approval of a single-family dwelling unit exception, a memorandum of agreement (MOA) shall be recorded with the Whatcom County auditor by the landowner which includes a site plan depicting the area of the parcel to be dedicated for the single-family dwelling, yard area, permitted accessory structures, and access road. The MOA shall identify the action to be taken by the landowner to correct any violations of county ordinances or regulations.~~
- ~~(iv) The development moratorium shall remain in effect for the remainder of the site.~~
- ~~(b) Review Criteria. One single-family dwelling, permitted accessory structures, lawns and landscaped area, and access road may be constructed together with site development activities necessary to construct the dwelling on land subject to a development moratorium; provided, that:~~
- ~~(i) The construction of the single-family dwelling, lawn and landscaping area, accessory structures, and access road are in compliance with all applicable county regulations;~~
- ~~(ii) The landowner corrects any violations of critical area and resource land requirements if any have occurred on the parcel;~~
- ~~(iii) Reforestation of the site has occurred, if required, pursuant to Chapter 222-34 WAC.~~
- ~~(c) Required Written Findings and Determinations. A single-family dwelling unit exception may be approved by the director on a site that is subject to a six-year development moratorium only if all of the following findings can be made regarding the proposal and are supported by the record:~~
- ~~(i) The single-family exception to the six-year development moratorium will not be detrimental to the public health, safety, and general welfare.~~
- ~~(ii) The single-family exception to the six-year development moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.~~
- ~~(iii) The single-family exception to the six-year development moratorium will not result in significant adverse environmental impacts.~~
- ~~(iv) The granting of the single-family exception to the six-year development moratorium is consistent with the review criteria in subsection (3)(b) of this section.~~
- ~~(v) The single-family exception to the six-year development moratorium is consistent and compatible with the goals, objectives, and policies of the Comprehensive Plan, appropriate community plan or subarea plan, and the provisions of this section.~~
- ~~(d) Six-year moratoriums will be administratively removed by the director of the planning and development services department or his/her designee when it is determined that the moratorium has been attached to incorrect parcel numbers and where no activity on the incorrect parcel would warrant a moratorium, or when forest practice applications or notifications are withdrawn prior to any logging or clearing activities. (Ord. 2018-032 § 1 (Exh. D), 2018; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).~~

~~20.80.739~~ — ~~Conversion option harvest plan (COHP).~~

- ~~(1) A conversion option harvest plan shall conform to the submission requirements of the Department of Natural Resources.~~
- ~~(2) A conversion option harvest plan must be reviewed and approved by the county prior to submittal to the Department of Natural Resources in order for a moratorium waiver on development to be granted by the county.~~
- ~~(3) A fee shall be established in accordance with the Whatcom County unified fee schedule for the review of a conversion option harvest plan.~~
- ~~(4) The conversion option harvest plan shall remain in effect until a project permit has been approved by the county. (Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).~~

Chapter 20.97 Definitions

20.97.053 Clearing.

“Clearing” means destruction of vegetation by manual, mechanical, or chemical methods resulting in exposed soils.

20.97.054 Clearing activity.

“Clearing activity” means clearing taking place on a single parcel of record or as part of a single project. Fill and grade activities regulated by the €County are considered a clearing activity.

20.97.085 Conversion.

“Conversion to a use other than commercial timber operation” means a bona fide conversion to an active use which is incompatible with timber growing (WAC 222-16-010). ~~The following forest practices qualify as forest conversions (RCW 76.09.050):~~

- ~~(1) Forest practices that occur on lands platted after January 1, 1960, as provided in Chapter 58.17 RCW.~~
- ~~(2) Forest practices on lands that have or are being converted to another use. (Ord. 2001-003 § 2, 2001).~~

20.97.086 Conversion option harvest plan (COHP).

“Conversion option harvest plan (COHP)” means a voluntary plan developed by the landowner and approved by the €County prior to submittal to the Department of Natural Resources, indicating the limits of harvest areas, road locations, critical area buffers, and open space. The plan provides the landowner with the opportunity to log under a DNR Class II, III, or IV special permit without a €County project permit while maintaining the option to convert the land at a later date. ~~Under this condition, the imposition of a six-year moratorium on future development will not apply.~~

20.97.157 Forest land.

“Forest land” means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

20.97.158 Forest practice.

"Forest practice" means any activity conducted on or directly pertaining to forest land and related to growing, harvesting, or processing timber (~~Chapter 222-16 WAC~~) including, but not limited to: (1) road and trail construction; (2) fertilization; (3) prevention and suppression of diseases and insects; or other activities ~~which~~ that qualify as a use or development subject to the Forest Practices Act.

20.97.160.1 Forested area.

"Forested area" means the area encompassed by the tree canopy and any native vegetation that occurs within the boundaries of the tree canopy.

20.97.194.1 Land disturbing activity.

"Land disturbing activity" means activity that results in a movement of earth or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include but are not limited to clearing, grading, filling, ~~and excavation, and, C~~compaction ~~that is associated with stabilization of structures and road construction shall also be considered a land-~~disturbing activity. Vegetation maintenance practices are not considered a land-disturbing activity. Stormwater facility maintenance is not considered a land disturbing activity if conducted according to established standards and procedures.

20.97.271 Nonconversion.

"Nonconversion" means the continued use of land for forest production. The ~~two~~three following situations qualify as nonconversions of forested land:

- (1) A standard forest practice where the Department of Natural Resources is in charge of all aspects of the forest practices including applications, notifications, permits, harvesting, replanting, etc. ~~The six year moratorium on development is applied when a standard forest practice occurs. (Chapter 76.09 RCW and WAC Title 222)~~
- (2) A conversion option harvest plan (COHP), as provided for in WCC 20.80.730(8) ~~76.110~~, approved by the local government and submitted to the Department of Natural Resources as part of the forest practices application allows a forest landowner who is unsure about their future plans for their property to harvest their timber and also maintain the option to convert their land at a later date without the imposition of the six-year moratorium.

20.97.436.1 Tree canopy.

"Tree canopy" means the total area of the tree(s) where the leaves and outermost branches extend, ~~and~~ also known as the dripline.

20.97.436.3 Tree height.

- (1) "Small tree" generally indicates a height of less than 25 feet at maturity;
- (2) "Medium tree" generally indicates a height of more than 25 feet and less than 40 feet at maturity;
- (3) "Large tree" generally indicates a height of more than 40 feet at maturity.

20.97.436.4 Tree, significant.

Any evergreen tree, 12 inches or greater in diameter at breast height (DBH) or deciduous tree, eight inches or greater DBH. Diameter at breast height shall be measured four and one-half feet above

| existing grade. The ~~Director of planning and development services~~ may authorize the exclusion of any tree, which for reasons of health or age is not desirable to retain, from this definition.

Title 22 – LAND USE AND DEVELOPMENT

Chapter 22.05 – Project Permit Procedures

22.05.020 Project Permit Processing Table.

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Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210 , 22.05.120)	Appeal Body (see 2.11.210 , 22.05.160 , 23.60.150(H))
Type I Applications (Administrative Decision with No Public Notice or Hearing)									
...									
Natural Resource Assessment Site Plan Review/Notification of Activity)	Title 16		✓					Director	Hearing Examiner
...									

...

WHATCOM COUNTY PLANNING & DEVELOPMENT SERVICES STAFF REPORT

I. OVERVIEW

File # PLN2021-00014

File Name: Forest Practices Transfer of Jurisdiction

Applicant: Whatcom County Planning and Development Services

Summary of Request: Zoning code amendments necessary to receive regulatory jurisdiction over Class I, II, III, and IV Forest Practices in Urban Growth Areas and Class IV - General Forest Practices countywide.

Location: Countywide

Use of Subject Site: N/A - Countywide

Use of Surrounding Properties: N/A - Countywide

II. BACKGROUND

Substitute House Bill 1409 was passed by the 60th Legislature of Washington State during the 2007 Regular Session. This Bill amended RCW 76.09.240 such that counties planning under RCW 36.70A.040 (Growth Management Act - GMA) which meet certain criteria are required to adopt and enforce ordinances or regulations for certain forest practices to take over regulatory jurisdiction from the Department of Natural Resources (DNR). Whatcom County meets the criteria and is required to assume jurisdiction.

Under the proposed amendments, Whatcom County would regulate Class I, II, III, and IV forest practices within designated Urban Growth Areas (UGAs). These forest practices are presently regulated by DNR and include activities such as commercial timber harvests and supplementary activities such as road building and construction of landings that support timber harvests, among others. Whatcom County would also become the sole regulatory agency over Class IV – General forest practices, whereas both Whatcom County and DNR presently review these activities. Class IV – General forest practices involve timber harvest or road construction on forest lands that are being converted to another use.

We anticipate beginning to regulate these forest practices in the summer of 2022.

III. ANALYSIS OF THE PROPOSED ZONING CODE AMENDMENT

Pursuant to Whatcom County Code (WCC) 22.10.060, the Planning Commission and County Council must find that the amendment is consistent with the Comprehensive Plan in order to approve the proposed amendment to the development regulations

Goal 2D: Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). DNR will not process the Class IV - General permit until a Land Disturbance Permit is issued by Whatcom County. The DNR permit process takes a minimum of 15 days. Upon transfer of jurisdiction, a DNR permit will not be required, saving applicants a minimum of 15 days of permit processing time.

Policy 2D-4: Coordinate permitting requirements among jurisdictions to minimize duplication and delays.

Staff Comment: Upon adoption of the proposed code amendments, DNR will no longer review Class IV – General Forest Practices, as Whatcom County will have sole regulatory jurisdiction. The DNR permit process takes a minimum of 15 days. Eliminating the requirement for a DNR permit will save applicants a minimum of 15 days of permit processing time.

Goal 3A: Minimize the time required for processing housing-related development and construction permits in the interest of overall cost reduction.

Policy 3A-1: Streamline and simplify existing and proposed permitting processes.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable

overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-1: Work with state and federal agencies to coordinate and streamline environmental review.

Staff Comment: As part of accepting regulatory jurisdiction, Whatcom County has coordinated with the Department of Natural Resources, providing documentation that demonstrates that Whatcom County Code meets the requirements for accepting jurisdiction over these forest practices. DNR will review this documentation, in coordination with the Department of Ecology, and provide Whatcom County with a memorandum acknowledging Whatcom County has met the requirements for receiving jurisdiction. Upon completion of this process, Class IV - General Forest Practice permits will no longer be processed by DNR and these activities will be reviewed solely by Whatcom County, eliminating permit delays and additional costs presently experienced by applicants.

Policy 7D-6: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

Goal 8H: Support increasing the viability of Whatcom County's forest products industry.

Policy 8H-1: Support improving the efficiency and flexibility of state and local environmental regulations affecting the forest products industry, in order to assure environmental protection and improve predictability for the forest products industry while minimizing the regulatory costs to forest landowners.

Staff Comment: Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will result in more efficient permit issuance, as DNR will no longer review these activities. The DNR Class IV – General permit process takes a minimum of 15 days and costs \$1,500. Upon transfer of jurisdiction, a DNR permit will no longer be required, saving applicants a minimum of 15 days of permit processing time as well as permitting fees.

IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

1. An application for zoning code amendments was received by Whatcom County on

October 19, 2021

2. The proposed amendments were docketed by the Whatcom County Council on March 8, 2022.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on February 14, 2022. The associated comment period ended February 28, 2022. The associated appeal period ended March 10, 2022.
4. Notice of the Planning Commission hearing was published in the Bellingham Herald on March 11, 2022.
5. Notice of the proposed amendment was sent to the Department of Commerce on February 10, 2022.
6. On February 10, 2022 the Department of Commerce acknowledged receipt of the notice, and that a copy of the notice had been forwarded to other state agencies.
7. The Whatcom County Comprehensive Plan contains goals and policies that are applicable to the proposal.
8. Goal 2D: Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-3: Streamline development regulations to eliminate unnecessary time delays.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). DNR will not process the Class IV - General permit until a Land Disturbance Permit is issued by Whatcom County. The DNR permit process takes a minimum of 15 days. Upon transfer of jurisdiction, a DNR permit will not be required, saving applicants a minimum of 15 days of permit processing time.

9. Goal 2D: Refine the regulatory System to ensure accomplishment of desired land use goals in a fair and equitable manner.

Policy 2D-4: Coordinate permitting requirements among jurisdictions to minimize duplication and delays.

Upon adoption of the proposed code amendments, DNR will no longer review Class IV – General Forest Practices, as Whatcom County will have sole regulatory jurisdiction. The DNR permit process takes a minimum of 15 days. Eliminating the requirement for a DNR permit will save applicants a minimum of 15 days of permit processing time.

10. Goal 3A: Minimize the time required for processing housing-related development and

construction permits in the interest of overall cost reduction.

Policy 3A-1: Streamline and simplify existing and proposed permitting processes.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

11. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-1: Work with state and federal agencies to coordinate and streamline environmental review.

As part of accepting regulatory jurisdiction, Whatcom County has coordinated with the Department of Natural Resources, providing documentation that demonstrates that Whatcom County Code meets the requirements for accepting jurisdiction over these forest practices. DNR will review this documentation, in coordination with the Department of Ecology, and provide Whatcom County with a memorandum acknowledging Whatcom County has met the requirements for receiving jurisdiction. Upon completion of this process, Class IV - General Forest Practice permits will no longer be processed by DNR and these activities will be reviewed solely by Whatcom County, eliminating permit delays and additional costs presently experienced by applicants.

12. Goal 7D: Consistent with other goals of the county, strive for balanced, clear and predictable overall policies, practices and regulations which do not unnecessarily or inadvertently prevent, confuse, delay, or create costly hurdles restricting effective and desirable economic development.

Policy 7D-6: Streamline and coordinate the permit process and sustain a supportive customer service approach towards permitting.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will streamline the permitting process, as DNR will no longer review these activities.

13. Goal 8H: Support increasing the viability of Whatcom County's forest products industry.

Policy 8H-1: Support improving the efficiency and flexibility of state and local environmental regulations affecting the forest products industry, in order to assure environmental protection and improve predictability for the forest products industry while minimizing the regulatory costs to forest landowners.

Currently, Class IV - General Forest Practice permits are processed by both Whatcom County (through a Land Disturbance Permit) and DNR (Class IV - General). Adoption of the proposed code amendments will result in more efficient permit issuance, as DNR will no longer review these activities. The DNR Class IV – General permit process takes a minimum of 15 days and costs \$1,500. Upon transfer of jurisdiction, a DNR permit will no longer be required, saving applicants a minimum of 15 days of permit processing time as well as permitting fees.

V. PROPOSED CONCLUSION

The subject amendment is consistent with the approval criteria of WCC 22.10.060.

VI. RECOMMENDATION

Staff recommends approval of the proposed zoning text amendment.

ATTACHMENTS:

- Draft Ordinance
- Exhibit A - Proposed Zoning Code Amendment
- Exhibit B – WAC222-16-050 Classes of Forest Practices
- Exhibit C - Determination of Non-Significance (DNS) issued February 14, 2022 and Distribution List

WAC 222-16-050 *Classes of forest practices. There are four classes of forest practices created by the act. All forest practices (including those in Classes I and II) on nonfederal forest lands must be conducted in accordance with the forest practices rules. The department determines the classification of each forest practices proposal.

(1) **"Class IV-special."** Except as provided in WAC 222-16-051, application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be approved.

*(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as critical habitat (state) of threatened or endangered species.

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than five thousand board feet within any developed park recreation area and park managed salvage of merchantable forest products.

*(d) Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms described in (d)(i) of this subsection that has the potential to deliver sediment or debris to a public resource or that has the potential to threaten public safety, and which has been field verified by the department (see WAC 222-10-030 SEPA policies for potentially unstable slopes and landforms).

(i) For the purpose of this rule, potentially unstable slopes or landforms are one of the following: (See board manual section 16 for more descriptive definitions.)

(A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than thirty-five degrees (seventy percent);

(B) Toes of deep-seated landslides, with slopes steeper than thirty-three degrees (sixty-five percent);

(C) Groundwater recharge areas for glacial deep-seated landslides;

(D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or

(E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.

(ii) The department will base its classification of the application or notification on professional knowledge of the area, information such as soils, geologic or hazard zonation maps and reports, review of approved watershed analysis mass wasting prescriptions according to WAC 222-22-090(6) or other information provided by the applicant.

(iii) An application would not be classified as Class IV-special for potentially unstable slopes or landforms under this subsection if:

(A) The proposed forest practice is located within a watershed administrative unit (WAU) that is subject to an approved watershed analysis;

(B) The forest practices are to be conducted in accordance with approved prescriptions from the watershed analysis; and

(C) The applicable prescriptions are specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.

*(e) Timber harvest, in a WAU not subject to an approved watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation and local government, as high avalanche hazard where there is the potential to deliver sediment or debris to a public resource, or the potential to threaten public safety.

(f) Timber harvest or construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on the following except in (f)(iv) of this subsection:

(i) Archaeological sites or historic archaeological resources as defined in RCW 27.53.030; or

(ii) Historic sites eligible for listing on the National Register of Historic Places or the Washington Heritage Register as determined by the Washington state department of archaeology and historic preservation; or

(iii) Sites containing evidence of Native American cairns, graves, or glyptic records as provided for in chapters 27.44 and 27.53 RCW. The department of archaeology and historic preservation shall consult with affected Indian tribes in identifying such sites.

(iv) A forest practice would not be classified as Class IV-special under this subsection if:

(A) Cultural resources management strategies from an approved watershed analysis conducted under chapter 222-22 WAC are part of the proposed forest practices, and the landowner states this in the application; or

(B) A management plan agreed to by the landowner, the affected Indian tribe, and the department of archaeology and historic preservation is part of the proposed application, and the landowner states this in the application.

*(g) Forest practices subject to an approved watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan).

*(h) Filling or draining of more than 0.5 acre of a wetland.

(2) **"Class IV-general."** Applications involving the following circumstances are Class IV-general forest practices unless they are listed in Class IV-special. Forest practices applications classified Class IV-general are subject to the SEPA review process described in subsection (1) of this section.

*(a) Forest practices (other than those in Class I) on lands that are being converted to another use;

(b) Forest practices that would otherwise be Class III, but are taking place on lands that are not to be reforested because of likelihood of future conversion to urban development (see WAC 222-16-060 and 222-34-050); or

(c) Where the regulatory authority for forest practices has not been transferred from the department to the local governmental entity pursuant to RCW 76.09.240(1), forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW, except where the forest landowner provides one of the following:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial timber operations for ten years. This statement must be accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 or 84.34 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application.

Upon receipt of an application, the department will determine the lead agency for purposes of compliance with SEPA pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a thirty-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a permit from a local governmental entity acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable local governmental entity under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the local governmental entity is the lead agency for purposes of compliance with the SEPA.

(3) **"Class I."** Operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in Class IV-special are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

* (b) Road maintenance except: Replacement of bridges and culverts across Type S, F or flowing Type Np Waters; or movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

* (c) Construction of landings less than one acre in size, if not within a shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (d) Construction of less than six hundred feet of road on a sideslope of forty percent or less if the limits of construction are not within the shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type S Water and does not involve disturbance of the beds or banks of any waters.

* (f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring an application.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than five thousand board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any twelve-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

* (n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding forty percent or off-road use of tractors within the shorelines of a Type S Water, the riparian management zone of any Type F Water, or the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (o) Ground application of chemicals, if not within the CRGNSA special management area. See WAC 222-38-020 and 222-38-030.

* (p) Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than forty contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within one hundred feet of lands used for farming, or within two hundred feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

* (r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type S Water or the riparian management zone of a Type F Water, the bankfull width of a Type Np Water or flowing Type Ns Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than forty percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(4) **"Class II."** Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: Provided, that no forest practice enumerated below may be conducted as a Class II forest practice if the operation is within a "shorelines of the state," or involves owner of perpetual timber rights subject to RCW 76.09.067 (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a Class II forest practice if it takes place on lands that are being converted to another use. Unless the conditions described in (f) or (g) of this subsection are met, no forest practice enumerated below involving timber harvest or road construction may be conducted as a Class II if it takes place within urban growth areas designated pursuant to chapter 36.70A RCW. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practices application where:

(i) No modification of the uncompleted operation or of a forest practices hydraulic project design is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application;

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal; and

(iv) The application is not a multiyear permit that is located within an area subject to reanalysis of a watershed analysis under WAC 222-22-090(6).

*(c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than one acre.

*(d) Salvage of logging residue if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than forty percent.

*(e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than forty percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of forty percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of five thousand board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than forty percent of the total timber volume is removed in any twelve-month period.

(iv) Any harvest on less than forty acres.

(v) Construction of six hundred or more feet of road, provided that the department shall be notified at least two business days before commencement of the construction.

*(f) Forest practices involving timber harvesting or road construction listed in (a) through (e) of this subsection within urban growth areas (UGAs) designated pursuant to chapter 36.70A RCW, if the landowner provides one of the following:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial timber operations for ten years. This statement must be accompanied by either a written forest management plan acceptable to the department, or documentation that the land is enrolled under the provisions of chapter 84.33 or 84.34 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application.

* (g) Forest practices listed in (a) through (e) of this subsection within UGAs, and where the regulatory authority for forest practices has been transferred to the local governmental entity pursuant to RCW 76.09.240(1), may nonetheless be Class II forest practices and regulated by the department if:

(i) The forest practice is on a landowner's ownership of contiguous forest land equal to or greater than twenty acres; and

(ii) The landowner provides documentation described in (f)(i) or (ii) of this subsection.

(5) **"Class III."** Forest practices not listed under Classes IV, I or II above are Class III forest practices. Among Class III forest practices are the following:

* (a) Forest practices hydraulic projects except where classed as Class I, II, and IV forest practices.

* (b) Those within the shorelines of the state other than those in a Class I forest practice.

* (c) Aerial application of insecticides, except where classified as a Class IV forest practice.

* (d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

* (e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

* (f) All road construction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over one acre.

* (h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type S, F or flowing Type Np Waters; or

(ii) Movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

(i) Operations involving owner of perpetual timber rights subject to RCW 76.09.067.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding nineteen acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

* (n) Any filling of wetlands, except where classified as Class IV forest practices.

* (o) Multiyear permits.

* (p) Small forest landowner long-term applications that are not classified Class IV-special or Class IV-general, or renewals of previously approved Class III or IV long-term applications.

* (q) Forest practices involving timber harvest or road construction listed in (a) through (p) of this subsection within urban growth areas (UGAs) designated pursuant to chapter 36.70A RCW, if the landowner provides documentation described in subsection (4)(f)(i) or (ii) of this section.

* (r) Forest practices listed in (a) through (p) of this subsection within UGAs, and where the regulatory authority for forest practices has been transferred to the local governmental entity pursuant to RCW 76.09.240(1), may nonetheless be Class III forest practices and regulated by the department if:

(i) The forest practice is on a landowner's ownership of contiguous forest land equal to or greater than twenty acres; and

(ii) The landowner provides documentation described in subsection (4) (f) (i) or (ii) of this section.

(s) Removal of beaver structures from culverts on forest roads.

[Statutory Authority: RCW 76.09.040(3). WSR 13-21-032, § 222-16-050, filed 10/8/13, effective 12/30/13. Statutory Authority: RCW 76.09.040 and 76.09.370. WSR 13-01-007, § 222-16-050, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040. WSR 11-12-009, § 222-16-050, filed 5/20/11, effective 6/20/11; WSR 08-17-092, § 222-16-050, filed 8/19/08, effective 9/19/08. Statutory Authority: RCW 76.09.040, 76.09.010 (2) (d). WSR 07-20-044, § 222-16-050, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. WSR 06-11-112, § 222-16-050, filed 5/18/06, effective 6/18/06; WSR 05-12-119, § 222-16-050, filed 5/31/05, effective 7/1/05. Statutory Authority: RCW 76.09.040, 76.09.050, 76.09.370, and 34.05.350. WSR 02-17-099, § 222-16-050, filed 8/20/02, effective 9/20/02. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). WSR 01-12-042, § 222-16-050, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. WSR 98-07-047, § 222-16-050, filed 3/13/98, effective 5/1/98; WSR 97-24-091, § 222-16-050, filed 12/3/97, effective 1/3/98; WSR 93-12-001, § 222-16-050, filed 5/19/93, effective 6/19/93. Statutory Authority: RCW 76.09.040, 76.09.050 and chapter 34.05 RCW. WSR 92-15-011, § 222-16-050, filed 7/2/92, effective 8/2/92. Statutory Authority: RCW 76.09.040, 76.09.050 and 34.05.350. WSR 91-23-052, § 222-16-050, filed 11/15/91, effective 12/16/91. Statutory Authority: RCW 76.09.040. WSR 88-19-112 (Order 551, Resolution No. 88-1), § 222-16-050, filed 9/21/88, effective 11/1/88; WSR 87-23-036 (Order 535), § 222-16-050, filed 11/16/87, effective 1/1/88. Statutory Authority: RCW 76.09.040 and 76.09.050. WSR 82-16-077 (Resolution No. 82-1), § 222-16-050, filed 8/3/82, effective 10/1/82; Order 263, § 222-16-050, filed 6/16/76.]



SEPA Distribution List
SEP2022-00006
Date of Issuance: February 14, 2022

Please review this determination. If you have further comments or questions, phone the responsible official at (360) 778-5900. Please submit your response by the comment date noted on the attached notice of determination.

WA State Department of Archaeology and Historic Preservation via email
Stephanie Jolivet, stephanie.jolivet@dahp.wa.gov
SEPA@dahp.wa.gov

SEPA Unit, WA State Department of Ecology, Olympia via email
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WA State Department of Fish and Wildlife
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Applicant

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WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

SEPA Determination of Nonsignificance (DNS)

File: SEP2022-00006

Project Description: Zoning code amendments necessary to receive regulatory jurisdiction over Class I, II, III, and IV – Forest Practices in Urban Growth Areas and Class IV – General Forest Practices countywide.

Proponent: Whatcom County Planning and Development Services – Joshua Fleischmann

Address and Parcel #: County-Wide

Lead Agency: Whatcom County Planning & Development Services

Zoning: Countywide **Comp Plan:** Countywide **Shoreline Jurisdiction:** Countywide

The lead agency for this proposal has determined that no significant adverse environmental impacts are likely. This proposal will also be reviewed for compliance with all applicable Whatcom County Codes (WCC) which regulates development activities, including but not limited to: WCC 15 – Buildings and Construction, WCC 16.16 – Critical Areas, WCC 17 – Flood Damage Prevention, WCC 20 – Zoning, WCC 21 – Land Division Regulations, WCC 23 – Shoreline Management Program, the Whatcom County Development Standards and/or the Washington State Stormwater Manual. Mitigation may be a requirement of Whatcom County Code. Pursuant to RCW 43.21C.030(2)(c), an environmental impact statement (EIS) is not required. This decision was made following review of a completed SEPA environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☒ Pursuant to WAC 197-11-340(2), the lead agency will not act on this proposal for 14 days from the date of issuance indicated below. Comments must be received by 4:00 p.m. on February 28, 2022 and should be sent to: Joshua Fleischmann via email at JFleisch@co.whatcom.wa.us

Responsible Official: Mark Personius, mpersoni@co.whatcom.wa.us

Title: Director

Telephone: 360-778-5937

Address: 5280 Northwest Drive
Bellingham, WA 98226

Date of Issuance: February 14, 2022

Signature: _____

An aggrieved agency or person may appeal this determination to the Whatcom County Hearing Examiner. Application for appeal must be filed on a form provided by and submitted to the Whatcom County Current Planning Division located at 5280 Northwest Drive, Bellingham, WA 98226, during the ten days following the comment period, concluding March 10, 2022.

You should be prepared to make a specific factual objection. Contact Whatcom County Current Planning Division for information about the procedures for SEPA appeals.

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius, AICP
Director

**SEPA Determination of Nonsignificance (DNS)
Legal Notice**

To be published one time only on: **February 14, 2022**

CHARGE TO: Whatcom County Planning & Development Services
5280 Northwest Drive
Bellingham, Washington 98226
Acct #AP25580

**WHATCOM COUNTY GIVES PUBLIC NOTICE THAT THE FOLLOWING SEPA
THRESHOLD DETERMINATION OF NON-SIGNIFICANCE (DNS) HAS BEEN
ISSUED TODAY SUBJECT TO THE 14 DAY COMMENT PERIOD
CONCLUDING ON FEBRUARY 28, 2022.**

File: SEP2022-00006

Project Description: Zoning code amendments necessary to receive regulatory jurisdiction over Class I, II, III, and IV – Forest Practices in Urban Growth Areas and Class IV – General Forest Practices countywide.

Proponent: Whatcom County Planning and Development Services – Joshua Fleischmann

Address and Parcel #: County-Wide

Lead Agency: Whatcom County Planning & Development Services

Zoning: Countywide **Comp Plan:** Countywide **Shoreline Jurisdiction:** Countywide

ANY PERSON OR AGENCY MAY APPEAL THE COUNTY'S COMPLIANCE WITH WAC 197-11 BY FILING AN APPEAL WITH THE WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES LOCATED AT 5280 NORTHWEST DRIVE, BELLINGHAM, WA 98226. APPEALS MUST BE MADE WITHIN 10 DAYS AFTER THE END OF THE COMMENT PERIOD.



SEP 2022 - 00006

SEPA Environmental Checklist

Purpose of Checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of Checklist for Non-Project Proposals:

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the Supplemental Sheet for Non-project Actions (Part C). Please completely answer all questions that apply and note that the words "project", "applicant", and "property or site" should be read as "proposal", "proponent" and "affected geographic area", respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements that do not contribute meaningfully to the analysis of the proposal.

A Background

- 1 Name of proposed project, if applicable:

- 2 Name of applicant:
Applicant phone number:
Applicant address:
City, State, Zip or Postal Code:
Applicant Email address:

- 3 Contact name:
Contact phone number:
Contact address:
City, State, Zip or Postal Code:
Contact Email address:

- 4 Date checklist prepared:

- 5 Agency requesting checklist:

- 6 Proposed timing or schedule (including phasing, if applicable):

- 7 Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? Yes ☐ No ☐
If yes, explain:

- 8 List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:

- 9 Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? Yes ☐ No ☐
If yes, explain.

- 10 List any government approvals or permits that will be needed for your proposal, if known.

Code Amendment
#PLN2021-00014
- RE

- 11 Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

- 12 Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

B Environmental Elements

1 Earth

NOTE: Section B has been filled out to aid SEPA review but is not required per WAC 197-11-315(1) and Whatcom County Planning and Development Services Policy PL1-83-001Z.
RE

a. General description of the site:

- ☐ Flat
- ☐ Rolling
- ☐ Hilly
- ☐ Steep Slopes
- ☐ Mountainous
- ☐ Other

b. What is the steepest slope on the site (approximate percent slope)?

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

d. Are there surface indications or history of unstable soils in the immediate vicinity? Yes ☐ No ☐

If so, describe.

e. Describe the purpose, type, total area, approximate quantities and total affected area of any filling excavation or grading proposed.

Indicate source of fill.

Indicate where excavation material is going.

- f. Could erosion occur as a result of clearing, construction, or use?

Yes ☐ No ☐

If so, generally describe.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation and maintenance when the project is completed (i.e., dust, automobile, odors, or industrial wood smoke)?

If any, generally describe and give approximate quantities if known.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? Yes ☐ No ☐

If so, generally describe.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

3. Water

a. Surface:

- (1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? Yes ☐ No ☐

If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

- (2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? Yes ☐ No ☐

If yes, please describe and attach available plans.

- (3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected.

Indicate the source of fill material.

- (4) Will the proposal require surface water withdrawals or diversions? Yes ☐ No ☐

Give general description, purpose, and approximate quantities if known.

Does the proposal lie within a 100-year floodplain?

Yes ☐ No ☐

If so, note location on the site plan.

- (5) Does the proposal involve any discharges of waste materials to surface waters?

Yes ☐ No ☐

If so, describe the type of waste and anticipated volume of discharge

b. Ground Water:

- (1) Will ground water be withdrawn from a well for drinking water or other purposes? Yes ☐ No ☐

If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

- (2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals.....; agricultural; etc.). Describe the general size of the system, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

c. Water runoff (including stormwater):

- (1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known).

Where will this water flow?

Will this water flow into other waters? Yes ☐ No ☐

If so, describe.

(2) Could waste materials enter ground or surface waters?

Yes ☐ No ☐

If so, generally describe.

(3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site: Yes ☐ No ☐

If so, describe.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4 Plants

a. Check types of vegetation found on the site:

- ☐ Deciduous tree: alder, maple, aspen, other
- ☐ Evergreen tree: fir, cedar, pine, other
- ☐ Shrubs
- ☐ Grass
- ☐ Pasture
- ☐ Crop or grain
- ☐ Orchards, vineyards or other permanent crops
- ☐ Wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ Water plants: water lily, eelgrass, milfoil, other
- ☐ Other types of vegetation

- b. What kind and amount of vegetation will be removed or altered?
- c. List threatened or endangered species known to be on or near the site.
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
- e. List all noxious weeds and invasive species known to be on or near the site.

5. Animals

- a. Check any birds and animals, which have been observed on or near the site or are known to be on or near the site:

Birds:

- | | |
|---------------------------------|-------------------------------------|
| <input type="checkbox"/> Hawk, | <input type="checkbox"/> Heron, |
| <input type="checkbox"/> Eagle, | <input type="checkbox"/> Songbirds; |
| <input type="checkbox"/> Other: | |

Mammals:

- | | |
|---------------------------------|----------------------------------|
| <input type="checkbox"/> Deer, | <input type="checkbox"/> Bear, |
| <input type="checkbox"/> Elk, | <input type="checkbox"/> Beaver; |
| <input type="checkbox"/> Other: | |

Fish:

- | | |
|-------------------------------------|-----------------------------------|
| <input type="checkbox"/> Bass, | <input type="checkbox"/> Salmon, |
| <input type="checkbox"/> Trout, | <input type="checkbox"/> Herring, |
| <input type="checkbox"/> Shellfish; | <input type="checkbox"/> Other: |

- b. List any threatened or endangered species known to be on or near the site.

- c. Is the site part of a migration route? Yes ☐ No ☐

If so, explain.

- d. Proposed measures to preserve or enhance wildlife, if any:

- e. List any invasive species known to be on or near site.

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

- b. Would your project affect the potential use of solar energy by adjacent properties? Yes ☐ No ☐

If so, generally describe.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? Yes ☐ No ☐

If so, describe.

- (1) Describe any known or possible contamination at the site from present or past uses.

- (2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.
- (3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the projects development or construction, or at any time during the operating life of the project.
- (4) Describe special emergency services that might be required.
- (5) Proposed measure to reduce or control environmental health hazards, if any:

b. Noise

- (1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
- (2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
- (3) Proposed measures to reduce or control noise impacts, if any:

8 Land and Shoreline Use

a. What is the current use of the site and adjacent properties?

Will the proposal affect current land uses on nearby or adjacent properties? Yes ☐ No ☐

If so, describe.

b. Has the project site been used as working farmlands or working forest lands? Yes ☐ No ☐

If so, describe.

How much agriculture or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any?

If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to non-farm or non-forest use?

- (1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling and harvesting? Yes ☐ No ☐

If so, how:

c. Describe any structures on the site.

- d. Will any structures be demolished? Yes ☐ No ☐
If so, what?
- e. What is the current zoning classification of the site?
- f. What is the current comprehensive plan designation of the site?
- g. If applicable, what is the current shoreline master program designation of the site?
- h. Has any part of the site been classified as a critical area by the city or county? Yes ☐ No ☐
If so, specify.
- i. Approximately how many people would reside or work in the completed project?
- j. Approximately how many people would the completed project displace?
- k. Proposed measures to avoid or reduce displacement impacts, if any:
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any?

9 Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

☐ High
☐ Middle
☐ Low-income

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

☐ High
☐ Middle
☐ Low-income

- c. Proposed measures to reduce or control housing impacts, if any:

10 Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

- b. What views in the immediate vicinity would be altered or obstructed?

- c. Proposed measures to reduce or control aesthetic impacts, if any:

11 Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

- c. What existing off-site sources of light or glare may affect your proposal?
- d. Proposed measures to reduce or control light and glare impacts, if any:

12 Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?
- b. Would the proposed project displace any existing recreational uses? If so, describe.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13 Historic and Cultural Preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state or local preservation registers located on or near the site? Yes ☐ No ☐
If so, specifically describe.
- b. Are there any landmarks, features, or other evidence of Indian, historic use or occupation, this may include human burials or old cemeteries? Yes ☐ No ☐
Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Yes ☐ No ☐
Please list any professional studies conducted at the site to identify such resources.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples: Include consultation with tribes and the Department of Archeology and Historic Preservation, archaeological surveys, historic maps, GIS data, etc.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

14 Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plan, if any.

- b. Is site or geographic area currently served by public transit?
Yes ☐ No ☐
If not, what is the approximate distance to the nearest transit stop?

- c. How many parking spaces would the completed project have? How many would the project eliminate?

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? Yes ☐ No ☐
If so, generally describe (indicate whether public or private).

e. Will the project use (or occur in the immediate vicinity of)

- ☐ Water,
☐ Rail, or
☐ Air transportation?
If so, generally describe.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?

g. Proposed measures to reduce or control transportation impacts, if any:

15 Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)?

Yes ☐ No ☐

If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16 Utilities

a. Check utilities currently available at the site:

- | | |
|---|--|
| <input type="checkbox"/> Electricity, | <input type="checkbox"/> Natural gas, |
| <input type="checkbox"/> Water, | <input type="checkbox"/> Refuse service, |
| <input type="checkbox"/> Telephone, | <input type="checkbox"/> Sanitary sewer, |
| <input type="checkbox"/> Septic system, | <input type="checkbox"/> Other |

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

unknown; proposal a non-project action and applicable county-wide

Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Joshua Fleischmann

Digitally signed by Joshua Fleischmann
DN: C=US, E=jf@co.whatcom.wa.us,
CN=Joshua Fleischmann
Reason: I attest to the accuracy and integrity of this
document
Date: 2022.01.28 16:39:59-08'00'

Date Submitted: _____

FOR OFFICE USE ONLY

Reviewed by Whatcom County Planning & Development Services Staff

Robby Eckroth, 

Staff Signature

February 08, 2022

Date

C Supplemental Sheet for Non-project Actions

(It is not necessary to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

- 1 How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

**EXHIBIT A: PROPOSED AMENDMENTS TO THE WHATCOM COUNTY CODE TO
TRANSFER REGULATORY JURISDICTION OF CERTAIN FOREST PRACTICES FROM
THE DEPARTMENT OF NATURAL RESOURCES TO WHATCOM COUNTY**

Title 20 ZONING

Chapter 20.76 Forest Practices

Sections:

<u>20.76.010</u>	<u>Authority and purpose</u>
<u>20.76.020</u>	<u>Definitions</u>
<u>20.76.030</u>	<u>Applicability</u>
<u>20.76.040</u>	<u>Exemptions</u>
<u>20.76.050</u>	<u>Relationship to other regulatory requirements</u>
<u>20.76.060</u>	<u>Administration and enforcement</u>
<u>20.76.070</u>	<u>Right of entry</u>
<u>20.76.080</u>	<u>Notification to the Washington State Department of Revenue.</u>
<u>20.76.100</u>	<u>Forest practices - permit required.</u>
<u>20.76.110</u>	<u>Conversion option harvest plan (COHP)</u>
<u>20.76.220</u>	<u>Six-year development moratorium</u>

20.76.010 Authority and purpose

This chapter is established pursuant to the Forest Practices Act, chapter 76.09 RCW, which provides for the County's regulation and enforcement of certain forest practices on lands intended for conversion to non-forestry uses within the County's jurisdictional boundaries. This chapter also sets forth procedures and criteria for the Department of Planning and Development Services's (Department) review of Conversion Option Harvest Plans (COHPs) and the Department's imposition of the six-year development moratorium and subsequent development requirements described in WCC 20.76.220.

20.76.020 Definitions

The definitions contained in RCW 76.09.020 of the Forest Practices Act and in WAC 222-16-010 and 222-16-050 of the Forest Practice Act's implementing regulations shall apply to all terms used in this chapter, provided that the definitions contained in Whatcom County Code shall be applicable where not in conflict with the Forest Practices Act and its implementing regulations. In the event of any conflict between the definitions, the definitions in Whatcom County Code shall prevail.

20.76.030 Applicability

This chapter applies to the following:

(1) The following forest practices on lands within the County's jurisdiction:

- (a) Forest practices classified by WAC 222-16-050 as Class I, II, III, IV-General, and IV-Special that are within urban growth areas designated under RCW 36.70A.110, except for forest practices on ownerships of contiguous forestland equal to or greater than 20 acres where the applicant provides to the Department and the Washington State Department of Natural Resources (DNR)

- a written statement of intent, signed by the forest landowner(s), not to convert to a use other than growing commercial timber for 10 years. This statement must be accompanied by either:
- (i) A written forest management plan acceptable to the Department; or
 - (ii) Documentation that the land is enrolled as forestland of long-term commercial significance under the provisions of RCW 84.33;
- (b) Forest practices classified by WAC 222-16-050 as Class IV-General, outside urban growth areas designated under RCW 36.70A.110, involving either timber harvest or road construction, or both, on:
- (i) Forestlands that are being converted to another use; or
 - (ii) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development.
- (2) Review of conversion option harvest plans described in WCC 20.76.110
- (3) Imposition of the six-year development moratorium and subsequent development requirements described in WCC 20.76.220.

20.76.040 Exempt activities

- (1) The provisions of this chapter shall not apply to the following Class I Forest Practices.
- (a) Culture and harvest of Christmas trees and seedlings.
 - (b) Road maintenance, including placement of new gravel, within the roadway. Roadway is defined by the Whatcom County Public Works Development Standards, Chapter 5 - Road Standards.
 - (c) Native tree planting and seeding.
 - (d) Loading and hauling timber from landings or decks.
 - (e) Emergency fire control and suppression.
 - (f) Forestry research studies and evaluation tests by an established research organization.

20.76.050 Relationship to other regulatory requirements

- (1) Compliance with federal and state regulations. Applications filed pursuant to this chapter shall comply with all applicable federal and state regulations, including but not limited to RCW 76.09 and WAC 222. Where other agencies or entities have concurrent jurisdiction over the proposed forest practice or development, and the Director determines that the permit conditions imposed by such agencies or entities satisfy the requirements of this chapter, then those permit conditions may be relied upon for the purpose of determining compliance with the requirements of this chapter.
- (2) Compliance with other provisions of the Whatcom County Code. Applications and plans filed pursuant to this chapter shall comply with all applicable provisions of the Whatcom County Code.

20.76.060 Administration and enforcement

- (1) Permit, recording, and review fees associated with this chapter shall be in accordance with the current Whatcom County Council's adopted Unified Fee Schedule.
- (2) The enforcement of this chapter shall be under WCC 20.94.

20.76.070 Right of entry

By submitting an application under this chapter, the applicant consents to entry upon the subject site by the Director during regular business hours for the purposes of making reasonable inspections, to verify

information provided by the applicant, and to verify that work is being performed in accordance with the approved plans and permits and the requirements of this chapter.

20.76.080 Notification to the Washington State Department of Revenue

The Director shall notify the Washington State Department of Revenue (DOR) within 60 days of approving a forest practices permit issued under chapter 20.80. Such notification shall include the following information:

- (1) Landowner's legal name, address, and telephone number;
- (2) Decision date of permit; and
- (3) Parcel number and legal description (section, township, and range) of the subject site.

20.76.100 Forest Practices - Permit Required.

- (1) An approved forest practices permit shall be obtained from the Department prior to conducting any forest practices described in WCC 20.76.030(1).
- (2) The Department shall process a forest practices permit application according to the procedures for a Type 1 administrative decision under WCC 22.05 unless submitted concurrently with a Type 2 application under WCC 22.05, in which case the forest practices permit application shall be consolidated and processed as a Type 2 permit application. Applications for a forest practices permit shall be submitted and reviewed in compliance with the requirements in WCC 22.05.050 and may be processed concurrently with other development applications.
- (3) The Department shall not issue a forest practices permit unless the applicant provides verification from DNR that the subject site is not and has not been subject to a notice of conversion to nonforestry use under RCW 76.09.060 during the six-year period prior to the submission of the permit application.

20.76.110 Conversion Option Harvest Plan (COHP)

- (1) Optional process. As an alternative to applying for a forest practices permit under WCC 20.76.100, an applicant may choose to submit an application for a conversion option harvest plan (COHP), as defined in WCC 20.97.086, that, if approved, may preserve the landowner's option to convert forest land to a non-commercial forest use without subjecting the site to the six-year development moratorium in WCC 20.76.220.
- (2) General requirements for a COHP approval to the Department.
 - (a) An application for a COHP approval shall be submitted in compliance with the submittal requirements in WCC 22.05.050.
 - (b) An application for COHP approval shall be submitted prior to submittal of an application for development, and prior to conducting forest practices on the subject site.
 - (c) The Department shall review applications for COHP approvals for consistency with applicable County regulations and policies, and may inspect the subject site prior to rendering a decision.
- (3) COHP Review and Approval Process
 - (a) The Department shall review applications for COHP approvals for consistency with applicable County regulations and policies, and may inspect the subject site prior to rendering a decision.
 - (b) The applicant has the burden of proving that the application for COHP approval complies with all applicable laws.

- (c) The Department may approve, approve with conditions, or deny an application for a COHP approval.
- (d) The Department's approval of a COHP shall not release the applicant from the requirement to reforest a site under chapter 222-34 WAC.
- (e) An appeal of the Department's decision on an application for COHP approval must state the basis for the appeal and be submitted in writing to the Director within 30 days of the Department's decision date. The Director shall issue a written decision on the appeal to the landowner and to the appellant within 30 calendar days of receipt of the appeal.
- (4) Recording obligation. After the Department has approved the COHP, the applicant shall record it with the County Auditor. The COHP shall be binding upon the landowner and the landowner's successors in interest.
- (5) Duration of a COHP approved by the Department. The Department-approved COHP shall be valid for a period of two years from its approval date.

20.76.220 Six-year development moratorium

- (1) Applicability. The Department shall impose a six-year development moratorium on a site when any of the following occurs:
 - (a) The Department receives a notice of conversion to nonforestry uses under RCW 76.09.060 from DNR the Washington State Department of Natural Resources.
 - (b) The Department discovers a violation of a forest practices permit.
 - (c) The Department becomes aware that a landowner converted their land to a nonforestry use without the proper permits or approvals that are required under this chapter.
 - (d) The Department discovers that any condition of an approved conversion option harvest plan (COHP) has been significantly violated.
 - (i) For the purposes of this subsection, a violation of a COHP means exceeding the conditions of the COHP such as, but not limited to:
 - (A) Enlarging the area approved to be harvested, or increasing the volume of timber approved to be harvested; or
 - (B) Engaging in forest practices within a critical area or a critical area buffer as defined in WCC 16.16.
 - (ii) If the Department discovers that any condition of a COHP is violated, denial of applications for permits or approvals shall be recorded from the date the associated forest practice approval became effective.
- (2) Duration of the six-year development moratorium. The Department must deny all applications for permits or approvals:
 - (a) For a period of six years from the approval date of the applicable forest practices application/notification or the date that the Department was made aware of the harvest activities; or
 - (b) Until the following activities are completed for the land that is the subject of the notice of conversion:
 - (i) Full compliance with the State Environmental Policy Act (RCW 43.21C), if applicable;
 - (ii) The DNR has notified the Department that any outstanding final orders or decisions it has issued concerning the site have been resolved.

- (iii) The Department determines that the subject site is in full compliance with the Whatcom County Code. If full compliance is not found, the landowner must submit to the Department a mitigation plan to address the violations. Required mitigation plans must be prepared by the landowner and approved by the Department. Once approved, the mitigation plan must be implemented by the landowner .
- (3) Notification to the landowner of imposition of the six-year development moratorium.
 - (a) The Department shall notify the landowner when the following occurs:
 - (i) The Department receives a notice of conversion to a nonforestry use from the DNR for the subject site; or
 - (ii) The Department has identified a violation of this chapter as described in subsection (1) of this section.
 - (b) The notification shall contain the following:
 - (i) Name of landowner and tax parcel number;
 - (ii) Basis for the moratorium;
 - (iii) The effective date of the moratorium; and
 - (iv) Description of the appeal process.
- (4) Extent of application of the six-year development moratorium. The six-year development moratorium imposed by the Department shall apply to an entire site, unless the applicant can demonstrate that the area subject to forest practices activities complies with all provisions of the Whatcom County Code. Where such compliance is demonstrated, the moratorium shall only apply to those portions of the site that were subject to the actions described in subsection (1) of this section.
- (5) Appeals.
 - (a) Appeals of a notice of conversion to a nonforestry use issued by the DNR can be appealed to the Washington State Pollution Control Hearings Board under- RCW 43.21B.
 - (b) Appeals of the Department's imposition of the six-year development moratorium resulting from actions described in subsections (1)(b), (c), (d) of this section can be appealed under the procedures in WCC 22.05.160.
- (6) Recording of the six-year development moratorium. The Department shall record the six-year development moratorium with the County Auditor after the appeal deadline to challenge the moratorium has expired, or after all appeals have been resolved if any appeals have been filed.

Chapter 20.20 Urban Residential (UR) District

20.20.200 Prohibited uses.

...

20.20.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.20.208 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.22 Urban Residential - Medium Density (URM) District

20.22.200 Prohibited uses.

...

20.22.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.22.208 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.24 Urban Residential - Mixed (UR-MX) District

20.24.200 Prohibited uses.

...

20.24.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.24.208 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.32 Residential Rural (RR) District

20.32.200 Prohibited uses.

...

20.32.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.32.208 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.36 Rural (R) District

20.36.200 Prohibited uses.

...

20.36.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.36.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.40 Agriculture (AG) District

20.40.200 Prohibited uses.

...

20.40.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.40.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.42 Rural Forestry (RF) District

20.42.200 Prohibited uses.

...

20.42.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR ~~Washington State Department of Natural Resources~~ as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.42.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.44 Recreation and Open Space (ROS) District

20.44.200 Prohibited uses.

...

20.44.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.44.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.51 Lake Whatcom Watershed Overlay District

20.51.410 Seasonal clearing activity limitations.

(2) Clearing activity, as defined in WCC 20.97.054, or forest practices regulated by Whatcom County, that will result in exposed soils exceeding 500 square feet shall not be permitted from October 1st through May 31st; provided, that:

(a) The zoning administrator-Director may approve an exemption to this requirement for the following activities:

(v) The proposed activity consists of forest practices regulated by the DNR. ~~non-conversion forest practices, other than Class IV General forest practices on platted land, and other than those with an approved COHP regulated under Chapter 76.09 RCW; or~~

(3) To ensure compliance with subsection (2) of this section, ~~Whatcom County planning and development services~~ the Director shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Whatcom watershed from September 15th through May 31st. If September 15th occurs on a weekend day, the last day to issue permits shall be the Friday prior to September 15th. If June 1st falls on a weekend day, permits may be issued the Friday prior to June 1st, with the condition that no work shall occur until June 1st ~~within two weeks prior to the watershed seasonal closure on October 1st.~~

Chapter 20.59 Rural General Commercial (RGC) District

20.59.250 Prohibited uses.

...

20.59.253 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.59.254 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.60 Neighborhood Commercial Center (NC) District

20.60.200 Prohibited uses.

...

20.60.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.60.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.61 Small Town Commercial (STC) District

20.61.200 Prohibited uses.

...

20.61.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.61.208 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.62 General Commercial (GC) District

20.62.200 Prohibited uses.

...

20.62.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.62.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.63 Tourist Commercial (TC) District

20.63.200 Prohibited uses.

...

20.63.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.63.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.64 Resort Commercial (RC) District

20.64.200 Prohibited uses.

...

20.64.207 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.64.208 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.66 Light Impact Industrial (LII) District

20.66.200 Prohibited uses.

...

20.66.204 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.66.205 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.67 General Manufacturing (GM) District

20.67.200 Prohibited uses.

...

20.67.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.67.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.68 Heavy Impact Industrial (HI) District

20.68.200 Prohibited uses.

...

20.68.204 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.68.205 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.69 Rural Industrial and Manufacturing (RIM) District

20.69.200 Prohibited uses.

...

20.69.203 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.69.204 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.70 Airport Operations (AO) District

20.70.200 Prohibited uses.

...

20.70.210 Aerial application of chemicals, including but not limited to pesticides and insecticides, previously regulated by the DNR as Class I, II, III or IV - Special Forest Practices, when located within an Urban Growth Area.

20.70.211 Slash burning, when located within an Urban Growth Area.

...

Chapter 20.80 Supplementary Requirements

20.80.730 Land clearing.

20.80.731 Purpose.

The purpose of this section is to avoid or minimize impacts of clearing activity to adjacent and downstream public or private property and to protect receiving water bodies. The regulations contained in this section implement this goal by providing a reasonable standard for clearing land in Whatcom County. It is also the purpose of this section to establish a eCounty review process for larger clearing projects to ensure these regulations are met. ~~It is also the purpose of this section to provide procedures and review criteria for clearing activity in connection with conversion option harvest plans and implementing, exempting and removing development moratoria.~~

20.80.732 Applicability.

All clearing activities including clearing of forest land, ~~Class IV General forest practices applications, nonconversion forest practice applications with approved conversion option harvest plans (COHPs), and associated development moratoria~~ shall be subject to the provisions of the land clearing section unless specifically exempted in WCC 20.80.733. No clearing activity approval shall be issued by the eCounty prior to meeting the requirements set forth in the ~~Whatcom County Development Standards~~ this chapter and only when in compliance with federal, state and local regulations, including, but not limited to WCC Chapter 16.16, the (Critical Areas) Ordinance, WCC Chapter 16.08 (the Whatcom County SEPA Ordinance), Washington State Forest Practices pursuant to WAC Title 222, forest practices pursuant to WCC 20.76, and WCC Title 23 the (Shoreline Management Program). Administrative provisions and technical standards for implementing these regulations shall be contained in WCC 22.05 the Whatcom County Development Standards, Chapter 3, Land Clearing.

20.80.733 Exemptions.

Any clearing activity that meets the following criteria shall be exempt from the clearing requirements of this chapter:

- (1) The proposed activity does not involve the conversion of forest land, is outside critical areas and associated buffers, and is exclusively related to agriculture as defined in this ~~title~~ Chapter; or

- (2) The proposed activity consists of nonconversion forest practices ~~regulated by the DNR, other than Class IV-General forest practices on platted land, and other than those with an approved COHP regulated under Chapter 76.09 RCW; or~~
- (3) The proposed activity is surface mining regulated under Chapter 78.44 RCW.

20.80.734 General Review Thresholds.

County review and approval shall be required prior to a clearing activity when any of the following land clearing thresholds have been reached. If the clearing activity does not meet the threshold criteria, ~~€County~~ review is not required. However, the owner is still subject to, and must comply with, the minimum requirements established in this chapter ~~and in the Whatcom County Development Standards~~. Review thresholds and additional requirements for water resource special management areas are located in WCC 20.80.735.

- (1) Five Thousand Square Foot Threshold on ~~30%-Percent~~ Slopes. The ~~€County~~ shall review all proposed clearing activities when a cumulative area of 5,000 square feet or greater of clearing activity is proposed to take place on slopes ~~30%-percent~~ or greater in gradient.
- (2) One-Acre Threshold in ~~Urban Residential, Commercial, Rural Residential Zoning Districts and Rural and Industrial Zoning Districts within the NPDES Phase II Area Boundary~~ Certain Areas. The ~~€County~~ shall review all proposed clearing activities ~~which that~~ are one acre or greater, including projects less than one acre that are part of a larger common plan of the development, in the following zoning districts where the slope is less than ~~30%-percent~~ in gradient:
 - Urban Residential.
 - Commercial.
 - Rural Residential.
 - Rural within the NPDES Phase II area boundaries, as delineated at the time that the ~~€County~~ determines that the development application is complete.
 - Industrial within the NPDES Phase II area boundaries, as delineated at the time that the ~~€County~~ determines that the development application is complete.
- ~~(3) Two-Acre Threshold in Rural Zoning Districts outside NPDES Phase II Area Boundaries. The county shall review all proposed clearing activities which are two acres or greater when the activities are proposed to take place in Rural Zoning Districts outside NPDES Phase II area boundaries and the slope is less than 30 percent in gradient.~~
- ~~(4)(3) Critical Areas and Associated Areas. The €County shall review all clearing activities within a critical area or critical area buffer, and all clearing activity greater than 500 square feet within 200 feet of a waterbody regulated under WCC Title 23, or within 200 feet of a wetland, habitat conservation area (HCA), frequently flooded area, or geological hazard regulated under WCC Title Chapter 16.16.~~
- ~~(5) Conversion from Forest Use. The county shall review all clearing activities that meet the definition of a conversion from a forest use to another land use pursuant to WCC 20.97.085.~~

20.80.735 Water Resource Special Management Areas.

The purpose of a water resource special management area is to establish a more stringent standard for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions.

Implementation of best management practices, including phased clearing, tree retention and seasonal clearing limitations, is intended to limit the amount of exposed soils on site that are susceptible to erosion at any one time, thereby improving site stability during development and reducing potential for transport of dissolved pollutants and sediments off site. Preservation of existing trees on site also reduces the quantity and maintains the quality of stormwater leaving a site during and after development activities by encouraging interception, infiltration, and evapotranspiration of rainfall and surface runoff.

Whatcom County shall establish the following geographic areas as water resource special management areas:

- Drayton Harbor watershed;
- Lake Padden watershed;
- Lake Samish watershed; and
- Birch Bay watershed.

(1) Water Resource Special Management Area Review Thresholds. County review and approval shall be required for clearing activities which exceed the following thresholds. If the clearing activity does not meet the threshold criteria, ~~e~~County review is not required. However, the owner is still subject to, and must comply with, the minimum requirements established in this chapter and ~~in the Whatcom County Development Standards~~ the Source Control BMPs established in the most current version of the Department of Ecology Stormwater Management Manual for Western Washington.

(a) Lake Samish and Lake Padden Watersheds. County review and approval shall be required for all clearing activities associated with a fill and grade permit, building permit, or other development proposal. Clearing activities which are not associated with a development permit shall require ~~e~~County review if they are:

(i) Five thousand square feet or greater during the dry season, June 1st through September 30th; or

(ii) Five hundred square feet or greater during the wet season, October 1st through May 31st.

(2) Within water resource special management areas, clearing activity must conform to the following conditions:

(a) Temporary erosion and sediment control shall be installed and inspected prior to any clearing activity. The ~~technical administrator~~ Director shall conduct periodic inspections to ensure the integrity of temporary erosion and sediment controls. Temporary erosion and sediment control measures include, but are not limited to, installation of silt fencing, installation of check dams, covering of excavation piles, and mulching of exposed soils, as specified in the ~~Whatcom County Development Standards~~ most current version of the Department of Ecology Stormwater Management Manual for Western Washington.

(b) **Phased Clearing.** Construction activities and clearing activities shall be phased to limit the amount of exposed soil that occurs at any one time, if determined to be appropriate by the ~~technical administrator~~ Director, based on site characteristics or constraints including, but not limited to, slopes, proximity to shorelines and wetlands. A phased clearing plan may be required, ~~and if so. A phased clearing plan, if required,~~ shall be submitted for review and approval by the ~~technical administrator~~ Director prior to any clearing activity and shall contain a detailed construction schedule or timeline.

- (c) **Soil Stabilization.** All disturbed areas shall be provided with soil stabilization within two days of the time of disturbance. The ~~technical administrator~~Director may approve an exemption to this requirement when a tree canopy area retention plan includes a soil stabilization plan. This plan component must specifically detail erosion and sediment control and stormwater runoff measures that provide runoff control equal to or greater than the protection provided by the standard two-day soil stabilization requirements of this section.
- (d) **Seasonal Clearing Activity Limitations.** In the Lake Samish and Lake Padden watersheds, clearing activity, as defined in WCC 20.97.054, that will result in exposed soils exceeding 500 square feet shall not be permitted from October 1st through May 31st; provided, that:
- (i) In addition to the clearing activities exempted under WCC 20.80.733, the ~~zoning administrator~~Director may approve an exemption to this requirement for the following activities:
- (A) Routine maintenance and repair of erosion and sediment control measures;
- (B) Activities located at or waterward of the ordinary high water mark subject to state, federal, and/or local (per Chapter 16.16 WCC and/or WCC Title 23) ~~conditions of approval~~requirements, requiring including commencement of clearing activity during the wet season, as defined in subsection (1)(a)(ii) of this section, for purposes of minimizing surface water disturbance and site inundation by high water or wave action;
- (C) Activities necessary to address an emergency that presents an unanticipated and imminent threat to public health, safety, or the environment that requires immediate action within a time too short to allow full compliance with this section. Upon abatement of the emergency situation, the clearing activity shall be reviewed for consistency with this chapter and may be subject to additional permit requirements; provided, that the applicant shall make a reasonable attempt to contact the ~~zoning administrator~~Director prior to the activity. When prior notice is not feasible, notification of the action shall be submitted to the ~~Director~~zoning administrator as soon as the emergency is addressed and no later than two business days following such action. Emergency construction does not include development of new permanent protective structures where none previously existed.
- (ii) To ensure compliance with subsection (2)(e) of this section, ~~Whatcom County planning and development services~~the Director shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Samish or Lake Padden watersheds ~~from September 15th through May 31st within two weeks prior to the watershed seasonal closure on October 1st~~If September 15th occurs on a weekend day, the last day to issue permits shall be the Friday prior to September 15th. If June 1st falls on a weekend day, permits may be issued the Friday prior to June 1st, with the condition that no work shall occur until June 1st.
- (iii) Soil disturbance associated with an exempt clearing activity shall be minimized to the maximum extent practicable. The ~~Director~~zoning administrator shall have the authority to condition an exempt activity to ensure that temporary erosion and sediment control measures will be implemented.

- (iv) An exemption from the seasonal land clearing requirements of this section does not grant authorization for any work to be done in a manner that does not comply with other provisions of this chapter or other applicable development regulations.
- (e) **One Hundred Fifty Percent Violation Fines.** When a violation occurs in an area designated as a water resource special management area, the total fine assessment shall be increased to 150 percent of the standard penalty as provided for in Chapter 20.94 WCC, Enforcement and Penalties.

20.80.736 Permit approval and inspection process.

~~If~~ When ~~e~~County review and approval is required to clear land, the ~~e~~County shall establish conditions for approval through one of the following permits:

- (1) **Project Permit.** When clearing activity is proposed as a part of a development proposal, the submittal requirements contained in WCC 22.05~~the Whatcom County Development Standards~~, including temporary and permanent erosion control measures, must be submitted by the permit applicant and approved by the ~~e~~County as part of a project permit application prior to any clearing activity. Under this condition, a separate clearing permit shall not be required. Erosion control inspections shall be required as a condition of the building permit at the time of footing inspection sign off. If the site is subject to WCC 20.80.735, the provisions of WCC 20.80.735(2)(a) shall apply.
- (2) **Clearing Permit.** A clearing permit shall be required when a clearing activity meets the established threshold(s) and is the only activity taking place and when no other project permit is required by the ~~e~~County for the proposal. Under this condition, submittal requirements contained in ~~the WCC 22.05~~Whatcom County Development Standards, Chapter 3, must be submitted with the clearing permit application. Clearing activities ~~which that~~ qualify as conversions require additional review pursuant to subsections (3)(a) through (c) of this section.
- (3) ~~Forest Practices Conversion Land Clearing Permit consistent with WCC 20.76.~~
 - ~~(a) A forest conversion land clearing permit is required by Whatcom County when a conversion as defined by WCC 20.97.085 is desired. This permit in no way exempts the applicant from any DNR permit requirements.~~
 - ~~(b) All applications shall comply with the requirements of Whatcom County Development Standards, Chapter 3 – Land Clearing, Section 304 – Review and Approval Requirements (E)(1) through (3), Submittal Requirements, and DNR Forest Practice Rules.~~
 - ~~(c) A signed memorandum of agreement shall be submitted by the landowner which shall state if development activity is planned to take place within 36 months of the date of application. The information contained in the application will provide the administrator with additional basis for conditioning the clearing activity or determining if harvesting of the site would be more appropriate after preliminary or final development approval.~~
 - ~~(i) If the applicant declares that no development activity is anticipated within 36 months of the date of application, in addition to all other conditions as included in Whatcom County Development Standards, Chapter 3 – Land Clearing, Section 304 – Review and Approval Requirements (E)(1) through (3), and DNR Forest Practice Rules, the following conditions will apply:~~
 - ~~(A) Replanting according to Chapter 222-34 WAC or stabilization of the site is required within the first growing season;~~

- ~~(B) No site grubbing will be allowed other than minimal grubbing to accommodate any temporary roads or landings required for timber harvest;~~
- ~~(C) No development permits will be issued for a period of 18 months from the date of the clearing application other than those for one approved single-family residence per lot of record.~~

20.80.737 Land clearing requirements.

- (1) **Site Containment.** Significant amounts of ~~e~~Erosion, sediment, and other impacts resulting from any clearing activity shall be contained on the site and may require temporary erosion/sedimentation control measures before, during, and immediately following clearing. All clearing activity requiring an approval must comply with the requirements of this chapter ~~and those of the Whatcom County Development Standards, Chapter 3.~~
- (2) **Hazards.** Clearing activities shall not result in off-site physical damage nor pose a danger or hazard to life or property on- or off-site.
- (3) **Site-Specific Requirements.** Additional site-specific requirements may be established after a site visit by the ~~e~~County. These requirements shall be based on specific site conditions and are limited to timing limitations, additional temporary erosion and sedimentation control, and/or the mitigation of hazardous or potentially hazardous conditions that pose a physical or environmental threat on- or off-site.
- ~~(4) **Slash Removal in Urban Zoning Districts.** In urban zoning districts slash shall be either removed from the site, or chipped and spread across the site within one year of project completion, or burned in compliance with the requirements of the Northwest Clean Air Agency Pollution Authority. Note: Burning of slash within urban growth areas may be subject to the provisions of RCW 70.94.743.~~
- ~~(5)~~(4) **Maintaining Established Buffers.** Buffers as identified in the clearing permit, WCC 20.80.736(1) or (2) or ~~Forest Practices permit, WCC 20.76.110~~~~20.80.739~~, shall be left undisturbed unless express permission for clearing activity or tree removal is provided by the ~~e~~County ~~and the DNR where an application is required by the DNR.~~ When approved by the ~~e~~County ~~and/or the DNR~~, tree removal from buffers should be kept to a minimum. Unauthorized tree removal from established buffers will result in an assessed penalty at a rate of twice the value of the merchantable timber. In the event of a dispute between the landowner and the ~~e~~County over the established value, an assessment will be made by a professional forester or arborist whose selection will be made by mutual agreement between the ~~e~~County and the landowner. The fee for the services of the professional forester or arborist shall be paid by the landowner or responsible party.
- ~~(6)~~(5) A clearing activity will be considered to be complete once the site has been revegetated and stabilized.

~~20.80.738 Development moratoria – Implementation, removal, and exceptions.~~

- ~~(1) **Development Moratorium.** The purpose of this section is to provide the criteria for imposing a development moratorium. It also provides standards for the hearing examiner to remove a six-year development moratorium, and for the director of the planning and development services department to authorize the construction of one single-family dwelling unit on a site that is subject to a six-year development moratorium.~~

- ~~(a) Actions That Result in a Development Moratorium. The following actions shall result in a six year development moratorium being imposed by the director of the planning and development services department or his/her designee:~~
 - ~~(i) Conversion of any land covered by a DNR forest practices application or notification where a conversion is not declared;~~
 - ~~(ii) Any property that has been harvested under a DNR forest practice application or notification without an associated COHP approval;~~
 - ~~(iii) Timber harvesting on a parcel or parcels without a forest practices application or notification;~~
 - ~~(iv) The violation of a COHP or a county forest conversion land clearing permit where the following situations exist:~~
 - ~~(A) The violation results in moderate on or off site impacts that require mitigation, but are not reasonably addressed by the violator within the time allotted by the technical administrator; or~~
 - ~~(B) The violation results in severe on or off site impacts of such magnitude or type that the technical administrator determines that professional assistance is necessary to mitigate the impacts.~~
- ~~(b) Consequences of a Development Moratorium.~~
 - ~~(i) Whatcom County shall suspend review of any application for development of land which is, or becomes, subject to a six year development moratorium. The suspension of application review does not constitute a stay of performance timelines as included in any ordinances or permit conditions associated with the site that is subject to a six year moratorium.~~
 - ~~(ii) Whatcom County shall not accept applications for any development of land which is subject to a six year moratorium.~~
 - ~~(iii) A development moratorium imposed by Whatcom County shall extend to the harvest area including the roads indicated in the forest conversion or forest practices application or COHP. If no forest practices permit or COHP was issued, the moratorium shall apply to the entire parcel.~~
 - ~~(iv) Prior to any development permit application, the property owner shall be required to submit a forest conversion land clearing permit application on land that was cleared without a forest practices application or notification, without an approved COHP, or in violation of a DNR issued forest practices permit.~~
 - ~~(v) Whatcom County shall notify the appropriate state agency if the county becomes aware of forest practices that have been initiated on a parcel without an approved forest practices application or notification.~~
- ~~(c) Effective Date of Moratorium:~~
 - ~~(i) The six year development moratorium shall be imposed from the effective date of the applicable forest practices application; or~~
 - ~~(ii) If forest practices occur on a site without the appropriate permit, a six year development moratorium shall be imposed from the date the unpermitted forest practices were documented by Whatcom County or the DNR; or~~

- ~~(iii) If a condition of a COHP approval is substantively violated, in the opinion of the technical administrator, a six-year development moratorium shall be imposed from the date the violation was documented by the county.~~
- ~~(2) Request for Removal of Development Moratorium. A development moratorium may be considered for removal by the hearing examiner when all of the following requirements are met:~~
 - ~~(a) Public Hearing Required.~~
 - ~~(i) The county shall set a date for public hearing before the examiner pursuant to Chapter 22.05 WCC after all the requests for additional information or plan corrections have been satisfied and the necessary components have been received as required for a complete application.~~
 - ~~(ii) The public hearing shall follow the procedures set forth in Chapter 22.05 WCC.~~
 - ~~(b) Review Criteria. The examiner shall consider the removal of a development moratorium when the following criteria are met:~~
 - ~~(i) The forest practices conducted on the site comply with requirements of Chapter 222-24 WAC, Road Construction and Maintenance, Chapter 222-30 WAC, Timber Harvesting, and any applicable county codes or regulations. When more than one rule, regulation, or code can be applied to a harvest, then the more stringent requirements shall be adhered to.~~
 - ~~(ii) Any required mitigation plan has been completed or the performance thereof has been adequately bonded.~~
 - ~~(iii) Any bonding required as part of a mitigation requirement has been established to county satisfaction.~~
 - ~~(iv) The site, when required by WCC 20.80.736(3)(c)(i)(A) or 20.80.739, shall have been reforested in accordance with the requirements set forth in Chapter 222-34 WAC.~~
 - ~~(v) Payment has been made of all other fees, penalties, liens, or taxes owed to the county which have been assigned to the subject parcel including reimbursement of any county expenses incurred relating to enforcement and/or preparation for the waiver hearing.~~
 - ~~(vi) All permit conditions have been addressed.~~
 - ~~(vii) Neither the applicant nor any person who acted in privity with the applicant:~~
 - ~~(A) Intended to circumvent any requirement of this section or the Forest Practice Act or regulations by taking the actions for which the moratorium was imposed; or~~
 - ~~(B) Has engaged in a pattern or practice of violations of any applicable regulations.~~
 - ~~(c) Approval.~~
 - ~~(i) The hearing examiner shall review all requests for the removal of a development moratorium, any comments received, and applicable county regulations or policies and may inspect the property prior to rendering a decision.~~
 - ~~(ii) The hearing examiner may approve an application for a request to remove a development moratorium, approve the application with conditions, require modifications of the proposal to comply with specified requirements of local conditions, or deny the application if it fails to comply with requirements of this section.~~
 - ~~(d) Required Written Findings and Determinations. Removal of a development moratorium may be approved by the examiner if the following findings can be made regarding the proposal and are supported by the record:~~

- ~~(i) The removal of the six-year development moratorium will not be detrimental to the public health, safety, and general welfare.~~
 - ~~(ii) The removal of the six-year development moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.~~
 - ~~(iii) The removal of the six-year development moratorium will not result in significant adverse environmental impacts.~~
 - ~~(iv) The removal of the six-year development moratorium is consistent with the review criteria established in subsections (2)(b)(i) through (vii) of this section.~~
 - ~~(v) The removal of the six-year development moratorium is consistent and compatible with the goals, objectives, and policies of the Comprehensive Plan, appropriate community plans or subarea plans, and the provisions of this section.~~
- ~~(3) Request for Single-Family Dwelling Exception. The director of the planning and development services department may administratively grant an exception to the mandatory six-year development moratorium to allow the construction of one single-family dwelling unit and associated accessory structures pursuant to the following standards:~~
- ~~(a) General Requirements.~~
 - ~~(i) The area that is permitted to be developed pursuant to this administrative exception shall not exceed one acre in size unless site and/or well and septic constraints require a larger area, in which case the area developed is not to exceed two acres. Access roads shall not be included in the total area permitted to be developed.~~
 - ~~(ii) A right-to-forestry disclosure statement as provided for in WCC 14.04.030(B) will be signed by the owner and subsequent purchasers, and recorded as per WCC 14.04.030(A)(1). This disclosure statement is not required in urban growth areas (UGAs) unless the forest practice occurs on a parcel adjacent to lands designated as forest lands of long-term commercial significance under Chapter 36.70A RCW.~~
 - ~~(iii) Upon approval of a single-family dwelling unit exception, a memorandum of agreement (MOA) shall be recorded with the Whatcom County auditor by the landowner which includes a site plan depicting the area of the parcel to be dedicated for the single-family dwelling, yard area, permitted accessory structures, and access road. The MOA shall identify the action to be taken by the landowner to correct any violations of county ordinances or regulations.~~
 - ~~(iv) The development moratorium shall remain in effect for the remainder of the site.~~
 - ~~(b) Review Criteria. One single-family dwelling, permitted accessory structures, lawns and landscaped area, and access road may be constructed together with site development activities necessary to construct the dwelling on land subject to a development moratorium; provided, that:~~
 - ~~(i) The construction of the single-family dwelling, lawn and landscaping area, accessory structures, and access road are in compliance with all applicable county regulations;~~
 - ~~(ii) The landowner corrects any violations of critical area and resource land requirements if any have occurred on the parcel;~~
 - ~~(iii) Reforestation of the site has occurred, if required, pursuant to Chapter 222-34 WAC.~~

- ~~(c) Required Written Findings and Determinations. A single-family dwelling unit exception may be approved by the director on a site that is subject to a six-year development moratorium only if all of the following findings can be made regarding the proposal and are supported by the record:~~
- ~~(i) The single-family exception to the six-year development moratorium will not be detrimental to the public health, safety, and general welfare.~~
 - ~~(ii) The single-family exception to the six-year development moratorium will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.~~
 - ~~(iii) The single-family exception to the six-year development moratorium will not result in significant adverse environmental impacts.~~
 - ~~(iv) The granting of the single-family exception to the six-year development moratorium is consistent with the review criteria in subsection (3)(b) of this section.~~
 - ~~(v) The single-family exception to the six-year development moratorium is consistent and compatible with the goals, objectives, and policies of the Comprehensive Plan, appropriate community plan or subarea plan, and the provisions of this section.~~
- ~~(d) Six-year moratoriums will be administratively removed by the director of the planning and development services department or his/her designee when it is determined that the moratorium has been attached to incorrect parcel numbers and where no activity on the incorrect parcel would warrant a moratorium, or when forest practice applications or notifications are withdrawn prior to any logging or clearing activities. (Ord. 2018-032 § 1 (Exh. D), 2018; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).~~

~~20.80.739 — Conversion option harvest plan (COHP).~~

- ~~(1) A conversion option harvest plan shall conform to the submission requirements of the Department of Natural Resources.~~
- ~~(2) A conversion option harvest plan must be reviewed and approved by the county prior to submittal to the Department of Natural Resources in order for a moratorium waiver on development to be granted by the county.~~
- ~~(3) A fee shall be established in accordance with the Whatcom County unified fee schedule for the review of a conversion option harvest plan.~~
- ~~(4) The conversion option harvest plan shall remain in effect until a project permit has been approved by the county. (Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).~~

Chapter 20.97 Definitions

20.97.053 Clearing.

“Clearing” means destruction of vegetation by manual, mechanical, or chemical methods resulting in exposed soils.

20.97.054 Clearing activity.

"Clearing activity" means clearing taking place on a single parcel of record or as part of a single project. Fill and grade activities regulated by the eCounty are considered a clearing activity.

20.97.085 Conversion.

"Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing (WAC 222-16-010). ~~The following forest practices qualify as forest conversions (RCW 76.09.050):~~

- ~~(1) Forest practices that occur on lands platted after January 1, 1960, as provided in Chapter 58.17-RCW.~~
- ~~(2) Forest practices on lands that have or are being converted to another use. (Ord. 2001-003 § 2, 2001).~~

20.97.086 Conversion option harvest plan (COHP).

"Conversion option harvest plan (COHP)" means a voluntary plan developed by the landowner and approved by the eCounty prior to submittal to the Department of Natural Resources, indicating the limits of harvest areas, road locations, critical area buffers, and open space. The plan provides the landowner with the opportunity to log under a DNR Class II, III, or IV special permit without a eCounty project permit while maintaining the option to convert the land at a later date. ~~Under this condition, the imposition of a six-year moratorium on future development will not apply.~~

20.97.157 Forest land.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

20.97.158 Forest practice.

"Forest practice" means any activity conducted on or directly pertaining to forest land and related to growing, harvesting, or processing timber ~~(Chapter 222-16 WAC)~~ including, but not limited to: (1) road and trail construction; (2) fertilization; (3) prevention and suppression of diseases and insects; or other activities ~~which that~~ qualify as a use or development subject to the Forest Practices Act.

20.97.160.1 Forested area.

"Forested area" means the area encompassed by the tree canopy and any native vegetation that occurs within the boundaries of the tree canopy.

20.97.194.1 Land disturbing activity.

"Land disturbing activity" means activity that results in a movement of earth or a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include but are not limited to clearing, grading, filling, and excavation, ~~and, C~~compaction ~~that is associated with stabilization of structures and road construction shall also be considered a land-disturbing activity.~~ Vegetation maintenance practices are not considered a land-disturbing activity. Stormwater facility maintenance is not considered a land disturbing activity if conducted according to established standards and procedures.

20.97.271 Nonconversion.

“Nonconversion” means the continued use of land for forest production. The ~~two~~^{three} following situations qualify as nonconversions of forested land:

- (1) A standard forest practice where the Department of Natural Resources is in charge of all aspects of the forest practices including applications, notifications, permits, harvesting, replanting, etc. ~~The six-year moratorium on development is applied when a standard forest practice occurs. (Chapter 76.09 RCW and WAC Title 222)~~
- (2) A conversion option harvest plan (COHP), as provided for in WCC 20.80.730(8), ~~76.110~~, approved by the local government and submitted to the Department of Natural Resources as part of the forest practices application allows a forest landowner who is unsure about their future plans for their property to harvest their timber and also maintain the option to convert their land at a later date without the imposition of the six-year moratorium.

20.97.436.1 Tree canopy.

“Tree canopy” means the total area of the tree(s) where the leaves and outermost branches extend, also known as the dripline.

20.97.436.3 Tree height.

- (1) “Small tree” generally indicates a height of less than 25 feet at maturity;
- (2) “Medium tree” generally indicates a height of more than 25 feet and less than 40 feet at maturity;
- (3) “Large tree” generally indicates a height of more than 40 feet at maturity.

20.97.436.4 Tree, significant.

Any evergreen tree, 12 inches or greater in diameter at breast height (DBH) or deciduous tree, eight inches or greater DBH. Diameter at breast height shall be measured four and one-half feet above existing grade. ~~The director of planning and development services may~~ authorize the exclusion of any tree, which for reasons of health or age is not desirable to retain, from this definition.

Title 22 – LAND USE AND DEVELOPMENT

Chapter 22.05 – Project Permit Procedures

22.05.020 Project Permit Processing Table.

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Permit Application Processing Table	WCC Reference for Specific Requirements	Pre-Application Required (see 22.05.040)	Determination of Completeness Required (see 22.05.050)	Notice of Application Required (see 22.05.070)	Site Posting Required (see 22.05.080)	Notice of Open Record Hearing Required (see 22.05.090)	Open Record Hearing Held By: (see 22.05.090)	County Decision Maker (see 2.11.210 , 22.05.120)	Appeal Body (see 2.11.210 , 22.05.160 , 23.60.150(H))
Type I Applications (Administrative Decision with No Public Notice or Hearing)									
...									
Natural Resource Assessment Site Plan Review/Notification of Activity)	Title 16		✓					Director	Hearing Examiner
...									

...



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-214

File ID:	AB2022-214	Version:	1	Status:	Introduced for Public Hearing
File Created:	03/29/2022	Entered by:	MAamot@co.whatcom.wa.us		
Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	04/26/2022	Enactment #:			

Primary Contact Email: maamot@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance adopting amendments to the Whatcom County Comprehensive Plan relating to capital facilities planning

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance amending the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) by adding the following two projects to the Parks, Trails, and Activity Centers Chapter: (a) Hovander Park Tennant Lake Flood Repair and Mitigation Improvements, and (b) Lookout Mountain Road & Culvert Repair and Mitigation Improvements.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Planning Dept Staff Memo, Parks Director Staff Memo, Draft Ordinance, Planning Commission Findings

WHATCOM COUNTY

Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-778-5900, TTY 800-833-6384
360-778-5901 Fax



Mark Personius
Director

Memorandum

March 30, 2022

To: The Honorable Satpal Sidhu, Whatcom County Executive
The Honorable Whatcom County Council

From: Matt Aamot, Senior Planner

Through: Steve Roberge, Assistant Director

RE: Capital Facility / Six-Year CIP Amendments (PLN2022-00004)

Whatcom County Comprehensive Plan Appendix F is the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities. The CIP addresses County parks, trails, activity centers, maintenance & operations, general government buildings and sites, Sheriff's Office, emergency management, adult corrections, juvenile detention, transportation, and stormwater facilities.

The Whatcom County Comprehensive Plan indicates that the Six-Year CIP should be updated every two years. The last CIP update was approved by the County Council in 2020. The next comprehensive update, scheduled for this year, will cover the time period from 2023-2028. However, the County has identified Park projects it wants to complete in 2022. In order to use real estate excise tax (REET) dollars, these projects must be in the Six-Year CIP.

Therefore, the subject proposal is to amend the Six-Year Capital Improvement Program for Whatcom County Facilities 2021-2026 by adding the following two projects to the Parks, Trails, and Activity Centers Chapter:

- Hovander Park Tennant Lake Flood Repair and Mitigation Improvements; and
- Lookout Mountain Road & Culvert Repair and Mitigation Improvements.

The Whatcom County Planning Commission recommended approval of the proposed CIP amendments on March 24, 2022. Planning & Development Services is requesting Introduction of an ordinance adopting these amendments on April 12. A public hearing and final Council action is anticipated on April 26. Pursuant to RCW 36.70A.130(2) final action on the CIP must be at the same meeting as the budget amendment (as CIP approval will not take place concurrently with the other Comprehensive Plan amendments).

Thank you for your review and consideration of this matter. We look forward to discussing it with you.



MEMORANDUM

TO: Matt Aamot
FROM: Michael McFarlane
DATE: March 24, 2022
RE: Six Year CIP 2021-2026

Attached are the descriptions for the two added items to the 6-yr CIP.

Hovander Park Tennant Lake Flood Repair and Mitigation Improvements

This project encompasses the restoration of Hovander Homestead Park and Tennant Lake. This parks infrastructure was heavily damaged in late 2021 storm events. Damage included park roads, several buildings, water and electrical systems, fencing, trails, topping levy, parking lots, irrigation, grounds and flower beds. Park staff is also working on proposals to raise two buildings above flood levels and removal of another from the site. Mitigation for levy repairs is undetermined at this time and will be addressed through the permitting processes.

Lookout Mountain Road & Culvert Repair and Mitigation Improvements

This project encompasses the replacement of an existing culvert. During late 2021 storm events, a small landslide in a narrow canyon occurred and materials flowed downstream eventually blocking a culvert on the main access road to Lookout Mountain. This blockage redirected stream flow down the road causing major damage and potentially cutting power and access to multiple communication sites. The culvert has been cleared and road repairs completed. Park staff is working with Department of Natural Resources and FEMA on potential replacement of the culvert and further road stabilization.

PROPOSED BY: Planning & Development Services
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**ADOPTING AMENDMENTS TO THE
WHATCOM COUNTY COMPREHENSIVE PLAN
RELATING TO CAPITAL FACILITIES PLANNING**

WHEREAS, The Whatcom County Planning Commission held a public hearing and issued recommendations on the proposed amendments; and

WHEREAS, The County Council considered Planning Commission recommendations;

WHEREAS, The County Council held a public hearing; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The proposal is to amend the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) by adding the following two projects:
 - a. Hovander Park Tennant Lake Flood Repair and Mitigation Improvements; and
 - b. Lookout Mountain Road & Culvert Repair and Mitigation Improvements.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on February 28, 2022.
3. The SEPA Official determined on February 28, 2022 that the determination of non-significance (DNS) issued in 2020 for the Six-Year CIP update is sufficient for the subject amendments.
4. Notice of the Planning Commission hearing was posted on the County website on March 11, 2022.
5. Notice of the Planning Commission hearing was published in the Bellingham Herald on March 11, 2022.

6. Notice of the Planning Commission hearing was sent to the County's email list on March 11, 2022.
7. The Planning Commission held a public hearing on the subject amendments on March 24, 2022.
8. Pursuant to WCC 22.10.060(1), in order to approve the proposed comprehensive plan amendments the County must find all of the following:
 - a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
 - b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
 - c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.
 - d. The amendment does not include or facilitate spot zoning.
9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.

10. GMA planning goal # 12 is to "Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)).
11. The subject amendments consist of updating the Six-Year CIP for Whatcom County Facilities for the 2021-2026 planning period by adding two park projects needed to address damage to existing facilities. Updating the CIP is one step in the process of planning capital facilities, including park and recreation sites, to serve the people of Whatcom County.
12. The GMA normally requires concurrent review of all comprehensive plan amendments once a year. However, there are exceptions including capital facilities plan amendments that occur along with the adoption or amendment of a county budget (RCW 36.70A.130(2)(a)(iv)). The subject Six-Year CIP amendments will be accompanied by a County budget amendment and, therefore, are not subject to the concurrent review provisions of the GMA.
13. County-Wide Planning Policy K-1 indicates that, as part of the comprehensive planning process, the County must identify appropriate land for public facilities that meets the needs of the community including recreation, transportation and human service facilities.
14. The Six-Year CIP identifies such improvements as contemplated by the County Wide Planning Policies.
15. There are no known interlocal agreements relating to the subject amendments.
16. An updated Six-Year CIP was adopted for County owned or operated facilities in 2020. The subject proposal amends the CIP to address needs identified by the Whatcom County Parks Department.
17. The goal of the Six-Year CIP for Whatcom County Facilities is to plan for County owned or operated facilities. The proposed repair and mitigation projects are in the public interest.
18. The subject proposal does not involve rezoning property.

CONCLUSION

The subject Whatcom County Comprehensive Plan amendments are consistent with the approval criteria in WCC 22.10.060.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Six-Year Capital Improvement Program for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) are hereby adopted as shown on Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this _____ day of _____, 2022.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Todd Donovan, Chairperson

APPROVED as to form:

() Approved () Denied

/s/ Royce Buckingham

Civil Deputy Prosecutor

Satpal Sidhu, Executive

Date: _____

Chapter 2 – Parks, Trails, and Activity Centers

Parks

The 2020 inventory of County parks and open space areas is over 16,200 acres. This inventory is shown below.

Table 1. Existing Parks

Site No.	Park Name and Location	Acres
1	Alderwood Park, 3479 Willowwood Rd.	1.9
2	Bay Horizon Park, 7467 Gemini St.	68.2
3	Birch Bay Beach Park, 7930 Birch Bay Dr.	13.7
4	Birch Bay Conservancy Area, 7000 Point Whitehorn Rd.	45.0
5	Birch Bay Tidelands	151.0
6	Boulevard Park, 471 Bayview Dr.	1.4
7	Broadway Beach Access, 7497 Birch Bay Dr.	0.1
8	Cagey Road, 3130 Haxton Way	20.0
9	Camp 2 RR ROW, 3775 Camp 2 Rd.	2.3
10	Canyon Lake Community Forest, 8300 Mt. Baker Hwy.	2,266.0
11	Chuckanut Mountain Park, 745 Old Samish Rd.	987.9
12	Cottonwood Beach Access, 8191 Birch Bay Dr.	5.1
13	Deming Eagle Homestead Park, 5615 Truck Rd.	33.0
14	Dittrich Park, 319 E Lake Samish Dr.	25.2
15	Drayton Harbor Tidelands	0.3
16	Euclid Park, 1570 Euclid Ave.	2.2
17	Galbraith Mountain Access, 800 Birch Falls Dr.	20.0
18	Glacier Cemetery	0.5
19	Halverson Park, 5075 Anderson Rd.	5.6
20	Haynie Road, 2876 Haynie Rd.	1.9
21	Hegg, 3845 Blue Canyon Rd.	3.5
22	Hovander Homestead Park and Tennant Lake, 5299 Nielsen Rd.	333.4
23	Jackson Rd. Beach Access, 7465 Birch Bay Dr.	0.2
24	Jensen Family Forest Park, 8051 Stein Rd.	21.5
25	Josh VanderYacht Park, 4106 Valley Highway	2.0
26	Kickerville Road, 4110 Bay Rd.	2.6
27	Lake Whatcom Park, 3220 North Shore Rd.	4,853.0
28	Lighthouse Marine Park, 811 Marine Dr. in Point Roberts	20.5
29	Lily Point Marine Park, 2315 APA Rd. in Point Roberts	262.1
30	Little Squalicum Park, 640 Marine Dr.	12.7
31	Lookout Mountain Forest Preserve, 2537 Lake Louise Rd.	4,682.8
32	Lummi Island Beach Access, 2198 N. Nugent Rd.	0.2
33	Maple Beach Tidelands	100.9
34	Maple Creek Park, 7842 Silver Lake Rd.	73.1
35	Maple Falls Community Park, 7470 Second St.	4.2
36	Monument Park, 25 Marine Dr. in Point Roberts	6.9
37	Nugent's Corner River Access, 3685 Mt. Baker Highway	14.2
38	Ostrom Conservation Site, 4304 South Pass Rd.	38.6
39	Phillips 66 Soccer Park, 5238 Northwest Dr.	36.6
40	Point Whitehorn Marine Reserve, 6770 Koehn Dr.	54.1
41	Redwood Park, 3310 Redwood Ave.	0.3
42	Samish Park, 673 N. Lake Samish Dr.	30.6
43	Samish Way, 5170 Samish Way	1.4
44	Semiahmoo Park, 9261 Semiahmoo Parkway	291.9
45	Silver Lake Park, 9006 Silver Lake Rd.	413.4
46	South Fork Park, 1530 Mosquito Lake Rd.	603.0
47	South Lake Whatcom Park, 4144 S Bay Dr.	79.5
48	South Pass East, 4900 South Pass Rd.	0.5
49	South Pass West, 4190 South Pass Rd.	0.4
50	Squires Lake Park, 2510 Nulle Rd.	84.2
51	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	400.4
52	Sunnyside Landing, 2870 Northshore Rd.	6.3
53	Sunset Beach, 2580 West Shore Dr. on Lummi Island	7.0
54	Sunset Farm Park, 7977 Blaine Rd.	69.5
55	Ted Edwards Park, 4150 Oriental Ave.	3.5
56	Teddy Bear Cove Park, 1467 Chuckanut Dr.	11.2
57	Terrell Creek Access, 7417 Jackson Rd.	0.5
58	Terrell Creek Heron Rookery, 7065 Jackson Rd.	15.0
59	Terrell Creek Point, 7685 Birch Bay Dr.	6.7
60	Turner-Jaeger, 1975 Lake Louise Rd.	3.8
61	Welcome Bridge River Access, 5585 Mosquito Lake Rd.	0.6
TOTAL		16,204.1

Pursuant to RCW 36.87.130, there are also public access properties on right-of-way ends that intersect shorelines.

Future Needs

A level of service of 9.6 acres of developed parkland for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. The County's existing parks will meet the adopted level of service over the six-year planning period. However, the County is proposing park improvement projects to increase quality of existing park facilities and develop the Birch Bay Community Park to meet the longer term needs of a growing population.

Proposed Improvement Projects

Park improvement projects, totaling ~~approximately \$8 million~~~~almost \$6.5 million~~, are proposed over the six-year planning period.

Trails

Whatcom County currently has almost 74 miles of trails in various locations throughout the County. This inventory is shown below.

Table 2. Existing Trails

Site No.	Trail Name and Location	Miles
1	Bay Horizon/Bay Crest Trail	0.75
2	Bay to Baker Maple Falls-Glacier	4.00
3	Canyon Lake Community Forest	7.01
4	Chuckanut Mountain / Pine & Cedar Lakes	16.60
5	Deming Homestead Eagle Park, Truck Rd.	0.30
6	Hovander Homestead Park	3.20
7	Interurban, Chuckanut area	3.15
8	Jensen Family Forest Park, Stein Rd. and Birch Bay Lynden Rd.	0.67
9	Lake Whatcom Park	8.50
10	Lily Point, Point Roberts	2.00
11	Lookout Mountain Forest Preserve	6.80
12	Maple Creek Park, 7842 Silver Lake Rd., Maple Falls	1.28
13	Monument Park, 25 Marine Dr. in Point Roberts	0.35
14	Phillips 66 Soccer Park Trail (Used to be Northwest Soccer Park), Smith	0.38
15	Ostrom Conservation Site, 4304 South Pass Rd.	0.56
16	Point Whitehorn Marine Reserve, 6770 Koehn Rd, Birch Bay	0.81
17	Samish Park, 673 N. Lake Samish	1.38
18	Semiahmoo Park	0.63
19	Silver Lake Park, 9006 Silver Lake Rd.	5.28
20	South Fork Park	2.30
21	Squires Lake, 2510 Nulle Rd.	2.88
22	Stimpson Family Nature Reserve, 2076 Lake Louise Rd.	4.02
23	Sunset Farm, 7977 Blaine Rd.	0.56
24	Teddy Bear Cove	0.33
TOTAL		73.74

Future Needs

A level of service of 0.60 miles of trails for every 1,000 people in the County was adopted in the Whatcom County Comprehensive Plan. With projected population growth in Whatcom County over the next six years, about 71 additional miles of trails would be needed by the year 2026 to serve the people of Whatcom County.

Proposed Improvement Projects

Trail improvement projects and associated facilities, totaling approximately \$4.8 million dollars, are proposed over the six-year planning period. These projects would add 9 trail miles (the South Fork Park trails project would add 5 miles and the Lake Whatcom trails project would add 4 miles). Additionally, the Birch Bay Drive & Pedestrian Facility (beach restoration and berm project) will add 1 mile of trail.

While there is a shortfall in trail miles provided by the County, there are other trails that are owned/maintained by a variety of agencies or jurisdictions that provide recreational opportunities for Whatcom County residents and visitors.

Activity Centers

There are currently 13 activity centers that provide a variety of year-round programs for various age groups. The activity center inventory is shown below.

Table 3. Existing Activity Centers

Site No.	Activity Center Name and Location
1	Bay Horizon, 7511 Gemini Street
2	Bellingham Senior Activity Center, 315 Halleck Street
3	Blaine Community Senior Center, 763 G Street
4	East Whatcom Regional Resource Center, 8251 Kendall Rd.
5	Everson Senior Center, 111 W. Main Street
6	Ferndale Senior Center, 1999 Cherry Street
7	Lynden Senior Center, 401 Grover Street
8	Plantation Rifle Range, 5102 Samish Way
9	Point Roberts Senior Center, 1487 Gulf Road
10	Roeder Home, 2600 Sunset Dr.
11	Sumas Senior Center, 461 2nd Street
12	Van Zandt Community Hall, 4106 Valley Highway
13	Welcome Senior Center, 5103 Mosquito Lake Rd.

Note: The Blaine, Everson, Lynden and Sumas Centers are owned by these respective cities. The Point Roberts Center is owned by the Point Roberts Park District. Whatcom County provides and/or contracts for senior activities and recreational programming at these centers.

Future Needs

The Whatcom County Comprehensive Plan does not contain a level of service standard for activity centers. Rather, Comprehensive Plan Policy 4F-5 states:

Continue to provide and support activity centers, including senior centers, to serve the growing population of Whatcom County by the following methods, as needed, which are listed in priority order: (1) implementing programming changes, (2) adding space to existing centers, and/or (3) establishing new centers.

Proposed Improvement Projects

Two activity center projects, involving a boiler replacement at the East Whatcom Regional Resource Center and demolition of a building at Bay Horizon, are proposed. These project will cost about \$591,000 within the six-year planning period.

Six-Year Capital Improvement Program

The park, trail, and activity center projects planned over the next six years are shown below.

Table 4. Park, Trail, and Activity Center Projects Planned Over the Next Six Years

Project #	Funding Source	2021	2022	2023	2024	2025	2026	Totals
1	Nugent's Corner Building Demolition	1	67,713					67,713
2	Parks Admin Offices HVAC Replacement & Upgrade	1	81,411					81,411
3	Lighthouse Marine Park Siding & Roofing	1		168,350				168,350
4	Silver Lake Restrooms & Day-Use Improvements	1	1,430,000	1,450,000	910,000			3,790,000
5	Birch Bay Beach Park Development	2, 3	140,000	392,825				532,825
6	Hovander Picnic Shelters	1		53,200	210,000	105,000		368,200
7	Silver Lake Cabins Capital Maintenance Program	1		250,603				250,603
8	Hertz Trail Capital Maintenance Program	1			25,000	195,000		220,000
9	Stimpson Family Nature Reserve Parking Improvements	1		80,075				80,075
10	Lookout Mtn Forest Preserve Parking Improvements	1		94,218				94,218
11	Lake Whatcom Park Trailhead	1	352,025		1,350,000	975,000		2,677,025
12	Lily Point Marine Park Parking Improvements	1				241,136		241,136
13	South Fork Park Bridges & Connector Trail	1, 2	29,000	125,000	125,000	515,000		794,000
14	Tennant Lake Interpretive Center Remodel	1				10,000	56,383	66,383
15	Hovander Park Access Improvements	1, 2					250,000	250,000
16	Samish Park Parking/Vehicular Circulation Improvements	1				75,000	225,000	300,000
17	Bay Horizon Hostel Demolition	1					456,248	456,248
18	Lake Whatcom Trail Development	1	189,000					189,000
19	Hovander Maintenance Shop	1	175,000					175,000
20	Maple Falls Park Trailhead Restroom & Parking	1, 2				182,500	750,000	932,500
21	East Whatcom Regional Resource Center-Replace Boiler	4		134,770				134,770
22	Hovander Park Tennant Lake Flood Repair and Mitigation Improvements	1, 2		1,050,000				1,050,000
23	Lookout Mountain Road & Culvert Repair and Mitigation Improvements	1, 2, 5		500,000				500,000
Parks Totals			2,464,149	3,954,220	1,589,821	1,995,000	1,678,636	13,419,457
Funding Sources:				-2,404,220				-11,869,457
1. Real Estate Excise Tax (REET)								
2. Grants								
3. Parks Special Revenue Fund								
4. Economic Development Investment (EDI) Funds								
5. Conservation Futures								

Chapter 11 – Total Costs

Total Costs for the six-year planning period are shown below.

Table 18. Total Costs for the Six-Year Planning Period

	Total Costs 2021-2026	Percent of Total Costs
Parks, Trails, and Activity Centers	<u>13,419,457</u> 11,869,457	<u>5.36%</u> 4.77%
Maintenance and Operations	812,375	<u>0.32%</u> 0.33%
General Government Buildings and Sites	52,893,469	<u>21.12%</u> 21.25%
Sheriff's Office	21,730,000	<u>8.68%</u> 8.73%
Emergency Management	405,842	0.16%
Adult Corrections	95,197,922	<u>38.01%</u> 38.24%
Juvenile Detention	0	0.00%
Transportation	53,797,000	<u>21.48%</u> 21.61%
Stormwater Facilities	12,213,000	<u>4.88%</u> 4.91%
TOTAL	<u>250,469,065</u> 248,919,065	100.00%

The County plans to undertake capital improvement projects costing approximately \$250.5 million~~\$249 million~~ between 2021 and 2026, which will be financed with a combination of local, state, federal, and other funding sources.

WHATCOM COUNTY PLANNING COMMISSION

Comprehensive Plan Capital Facility (Six-Year CIP) Amendments

FINDINGS OF FACT AND REASONS FOR ACTION

1. The proposal is to amend the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2021-2026 (Appendix F of the Whatcom County Comprehensive Plan) by adding the following two projects:
 - a. Hovander Park Tennant Lake Flood Repair and Mitigation Improvements; and
 - b. Lookout Mountain Road & Culvert Repair and Mitigation Improvements.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on February 28, 2022.
3. The SEPA Official determined on February 28, 2022 that the determination of non-significance (DNS) issued in 2020 for the Six-Year CIP update is sufficient for the subject amendments.
4. Notice of the Planning Commission hearing was posted on the County website on March 11, 2022.
5. Notice of the Planning Commission hearing was published in the Bellingham Herald on March 11, 2022.
6. Notice of the Planning Commission hearing was sent to the County's email list on March 11, 2022.
7. The Planning Commission held a public hearing on the subject amendments on March 24, 2022.

8. Pursuant to WCC 22.10.060(1), in order to approve the proposed comprehensive plan amendments the County must find all of the following:
 - a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
 - b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.
 - c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.
 - d. The amendment does not include or facilitate spot zoning.

Growth Management Act

9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.
10. GMA planning goal # 12 is to "Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)).

11. The subject amendments consist of updating the Six-Year CIP for Whatcom County Facilities for the 2021-2026 planning period by adding two park projects needed to address damage to existing facilities. Updating the CIP is one step in the process of planning capital facilities, including park and recreation sites, to serve the people of Whatcom County.
12. The GMA normally requires concurrent review of all comprehensive plan amendments once a year. However, there are exceptions including capital facilities plan amendments that occur along with the adoption or amendment of a county budget (RCW 36.70A.130(2)(a)(iv)). The subject Six-Year CIP amendments will be accompanied by a County budget amendment and, therefore, are not subject to the concurrent review provisions of the GMA.

County-Wide Planning Policies

13. County-Wide Planning Policy K-1 indicates that, as part of the comprehensive planning process, the County must identify appropriate land for public facilities that meets the needs of the community including recreation, transportation and human service facilities.
14. The Six-Year CIP identifies such improvements as contemplated by the County Wide Planning Policies.

Interlocal Agreements

15. There are no known interlocal agreements relating to the subject amendments.

Further Studies/Changed Conditions

16. An updated Six-Year CIP was adopted for County owned or operated facilities in 2020. The subject proposal amends the CIP to address needs identified by the Whatcom County Parks Department.

Public Interest

17. The goal of the Six-Year CIP for Whatcom County Facilities is to plan for County owned or operated facilities. The proposed repair and mitigation projects are in the public interest.

Spot Zoning

18. The subject proposal does not involve rezoning property.


CONCLUSION

The subject Whatcom County Comprehensive Plan amendments are consistent with the approval criteria in WCC 22.10.060.

RECOMMENDATION

Based upon the above findings and conclusions, Whatcom County Planning Commission recommends approval of the Six-Year Capital Improvement Program amendments shown on Exhibit A.

WHATCOM COUNTY PLANNING COMMISSION



Kelvin Barton, Chair



Tammy Axlund, Secretary

3-24-2022
Date

3/24/22
Date

Commissioners voted to recommend approval on March 24, 2022 (vote was 6-0 with 3 members absent). Members present at the meeting when the vote was taken: Kelvin Barton, Jim Hansen, Stephen Jackson, Julie Jefferson, Kimberley Lund, and Dominic Mocerì.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-221

File ID:	AB2022-221	Version:	1	Status:	Introduced for Public Hearing
File Created:	03/30/2022	Entered by:	CHalka@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: chalka@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code Section 16.50.090 to incorporate changes to the C-PACER Program adopted by the state legislature in RCW 36.165.060

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance amending Whatcom County Code Section 16.50.090 (Collection and Enforcement) to incorporate changes to the Commercial Property Assessed Clean Energy and Resiliency (C-PACER) Program adopted by the state legislature in RCW 36.165.060

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
04/12/2022	Council	INTRODUCED FOR PUBLIC HEARING	Council

Attachments: Staff Memo, Proposed Ordinance, Proposed Ordinance - tracked changes



WHATCOM COUNTY COUNCIL

TO: WHATCOM COUNTY COUNCIL
FROM: COUNCIL STAFF
DATE: MARCH 30, 2022
RE: C-PACER PROGRAM GUIDE UPDATE IN COORDINATION WITH AMENDMENT TO
WHATCOM COUNTY CODE SECTION 16.50.090

Proposed amendments to Whatcom County's C-PACER Program (Whatcom County Code Section 16.50.090) will bring county code into compliance with new guidance from the state legislature.

WHATCOM COUNTY CODE UPDATE

During the state legislature's 2022 regular session, Senate Bill 5862 was signed into law, amending RCW 36.165.060 (C-PACER liens). The bill clarifies responsibilities of capital providers of C-PACER funds to include billing, collections, and enforcement of delinquent C-PACER liens or assessment installments. It authorizes a C-PACER lien to be foreclosed in the same manner as a mortgage lien rather than in the same manner as delinquent property taxes, and it specifies the order in which proceeds of the foreclosure sale of the property must be applied.

WHATCOM COUNTY C-PACER PROGRAM GUIDEBOOK UPDATE

In accordance with Whatcom County Code section 16.50.080(B), the program guidebook and forms may be updated by the program administrator without approval of the Whatcom County Council so long as it complies with Whatcom County Code Chapter 16.50 and Chapter 36.165 RCW. The following sections are being updated to coordinate with Chapter 36.165 RCW are needed to the Whatcom County C-PACER Guidebook:

- Program Guidebook (p.10); including 8. Billing and Collection of Assessments, and 9. Enforcement of C-PACER Lien
- Exhibit 2: Assessment Agreement; Section 4. Collection of Assessment: Foreclosure
- Exhibit 4: Assignment of Notice of Assessment Interest; Page 1

Please contact Cathy Halka, Legislative Analyst, at ext. 5019 with any questions.

PROPOSED BY: DONOVAN
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE SECTION 16.50.090 (COLLECTION
AND ENFORCEMENT) TO INCORPORATE CHANGES TO THE COMMERCIAL
PROPERTY ASSESSED CLEAN ENERGY AND RESILIENCY (C-PACER)
PROGRAM ADOPTED BY THE STATE LEGISLATURE**

WHEREAS, in RCW 36.165.005, the State Legislature granted county governments in Washington the authority to establish a commercial property assessed clean energy and resiliency ("C-PACER") program that jurisdictions can voluntarily implement to ensure that free and willing owners of agricultural, commercial, and industrial properties and of multifamily residential properties with five or more dwelling units can obtain low-cost, long term financing; and

WHEREAS, the C-PACER program authorized in RCW 36.165 is consistent with goals and policies of the Whatcom County Comprehensive Plan and the Whatcom County Climate Action Plan; and

WHEREAS, on June 29, 2021, Whatcom County Council adopted Ordinance 2021-041 establishing a Whatcom County Commercial Property Assessed Clean Energy and Resiliency (C-PACER) Program (Whatcom County Code Chapter 16.50); and

WHEREAS, on March 17, 2022, during the 67th Legislature's 2022 Regular Session, Substitute Senate Bill 5862 was signed into law thereby amending RCW 36.165.060; and

WHEREAS, SSB 5862 clarifies responsibilities of capital providers of C-PACER funds to include billing, collections, and enforcement of delinquent C-PACER liens or assessment installments; and

WHEREAS, SSB 5862 also authorizes a C-PACER lien to be foreclosed in the same manner as a mortgage lien rather than in the same manner as delinquent property taxes; and

WHEREAS, SB5862 also specifies the order in which proceeds of the foreclosure sale of the property must be applied; and

WHEREAS, Whatcom County Council wishes to amend Whatcom County Code Section 16.50.090 Collection and Enforcement to bring the county's C-PACER program into compliance with recent state legislation.

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Code Section 16.50.090 (Collection and Enforcement) is hereby amended as shown in Exhibit A to this ordinance.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

() Approved () Denied

Karen Frakes (by phone 3/25/2022)

Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date Signed: _____

EXHIBIT A:

16.50.090 Collection and enforcement.

A. The Assessment and C-PACER Lien shall be assigned by the county to the capital provider at the close of any approved C-PACER financing by the county, as provided in RCW 36.165.050(3). The C-PACER Lien, as assigned to the Capital Provider shall maintain the same precedence and priority and characteristics set forth in section 16.50.060 of this chapter.

B. Billing, collection and enforcement of delinquent C-PACER Liens or C-PACER Financing installment payments, including foreclosure, shall remain the responsibility of the Capital Provider.

C. Pursuant to the assessment agreement, the C-PACER lien shall be solely enforced by the capital provider at any time after one year from the date of delinquency, and may be foreclosed in the same manner as a mortgage lien under chapter 61.12 RCW, except that no sale of the property shall discharge or in any manner affect the priority of the C-PACER Lien with respect to installments not yet due and payable at the time of sale, and no deficiency judgment may be sought by the Capital Provider with respect to any unpaid assessment at the time of sale. The participation of the county sheriff in any such foreclosure action shall not be deemed in violation of, or inconsistent with 36.165.110 RCW limiting the role of the county in the enforcement of a C-PACER Lien.

D. The Capital Provider may also pursue any other enforcement method authorized under RCW 36.165, as it may be amended from time to time.

PROPOSED BY: DONOVAN
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE SECTION 16.50.090 (COLLECTION
AND ENFORCEMENT) TO INCORPORATE CHANGES TO THE COMMERCIAL
PROPERTY ASSESSED CLEAN ENERGY AND RESILIENCY (C-PACER)
PROGRAM ADOPTED BY THE STATE LEGISLATURE**

WHEREAS, in RCW 36.165.005, the State Legislature granted county governments in Washington the authority to establish a commercial property assessed clean energy and resiliency ("C-PACER") program that jurisdictions can voluntarily implement to ensure that free and willing owners of agricultural, commercial, and industrial properties and of multifamily residential properties with five or more dwelling units can obtain low-cost, long term financing; and

WHEREAS, the C-PACER program authorized in RCW 36.165 is consistent with goals and policies of the Whatcom County Comprehensive Plan and the Whatcom County Climate Action Plan; and

WHEREAS, on June 29, 2021, Whatcom County Council adopted Ordinance 2021-041 establishing a Whatcom County Commercial Property Assessed Clean Energy and Resiliency (C-PACER) Program (Whatcom County Code Chapter 16.50); and

WHEREAS, on March 17, 2022, during the 67th Legislature's 2022 Regular Session, Substitute Senate Bill 5862 was signed into law thereby amending RCW 36.165.060; and

WHEREAS, SSB 5862 clarifies responsibilities of capital providers of C-PACER funds to include billing, collections, and enforcement of delinquent C-PACER liens or assessment installments; and

WHEREAS, SSB 5862 also authorizes a C-PACER lien to be foreclosed in the same manner as a mortgage lien rather than in the same manner as delinquent property taxes; and

WHEREAS, SB5862 also specifies the order in which proceeds of the foreclosure sale of the property must be applied; and

WHEREAS, Whatcom County Council wishes to amend Whatcom County Code Section 16.50.090 Collection and Enforcement to bring the county's C-PACER program into compliance with recent state legislation.

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Code Section 16.50.090 (Collection and Enforcement) is hereby amended as shown in Exhibit A to this ordinance.

ADOPTED this ____ day of _____, 2022.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Todd Donovan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

() Approved () Denied

Karen Frakes (by phone 3/25/2022)

Civil Deputy Prosecutor

Satpal Sidhu, County Executive

Date Signed: _____

EXHIBIT A:

16.50.090 Collection and enforcement.

A. The Assessment and C-PACER Lien shall be assigned by the county to the capital provider at the close of any approved C-PACER financing by the county, as provided in RCW 36.165.050(3). The C-PACER Lien, as assigned to the Capital Provider shall maintain the same precedence and priority and characteristics set forth in section 16.50.060 of this chapter. Collection and enforcement of delinquent C-PACER liens or C-PACER financing installment payments, including foreclosure, shall remain the responsibility of the capital provider.

B. Billing, collection and enforcement of delinquent C-PACER Liens or C-PACER Financing installment payments, including foreclosure, shall remain the responsibility of the Capital Provider.

C. Pursuant to the assessment agreement, the C-PACER lien shall be solely enforced by the capital provider at any time after one year from the date of delinquency, and may be foreclosed in the same manner as a mortgage lien under chapter 61.12 RCW, except that no sale of the property shall discharge or in any manner affect the priority of the C-PACER Lien with respect to installments not yet due and payable at the time of sale, and no deficiency judgment may be sought by the Capital Provider with respect to any unpaid assessment at the time of sale. that the collection of delinquent real property taxes is enforced by the county, by prosecution of foreclosure proceedings under Chapter 84.64 RCW et seq. This includes the provisions of RCW 84.64.040, excepting that a sworn declaration by the capital provider or assignee attesting to the assessment delinquency of at least one year shall be used in lieu of the certificate of delinquency required under RCW 84.64.050. The sworn declaration shall have the same legal standing as a certificate of delinquency enumerated in RCW 84.64.050. The participation of the county sheriff in any such foreclosure action shall not be deemed in violation of, or inconsistent with 36.165.110 RCW limiting the role of the county in the enforcement of a C-PACER Lien.

~~Chapter 36.165 RCW provides that "collection and enforcement of delinquent C-PACER liens or C-PACER financing installment payments, including foreclosure, shall remain the responsibility of the capital provider" and that "the capital provider or their assignee shall have and possess the same powers and rights at law or in equity to enforce the C-PACER lien" in the "same manner that the collection of delinquent real property taxes is enforced by the county under chapter 84.64 RCW." As such, the county shall have no obligation to prosecute the foreclosure of a C-PACER lien on behalf of the capital provider, and the capital provider, by accepting an assignment of a C-PACER lien pursuant to an assignment of notice of assessment and assessment agreement, shall assume under applicable law, the obligations, responsibilities, and duties of the county in respect of the enforcement and foreclosure of a C-PACER lien under Chapter 84.64 RCW. Any duties by the county deemed nondelegable by the county shall be performed, on a reimbursable basis, by the county on behalf of the capital provider. (Ord. 2021-041 Exh. A)~~

D. The Capital Provider may also pursue any other enforcement method authorized under RCW 36.165, as it may be amended from time to time.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-229

File ID:	AB2022-229	Version:	1	Status:	Agenda Ready
File Created:	04/07/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: Jill Nixon JNixon@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Appointment to a vacancy on the Acme / VanZandt Flood Control Subzone Advisory Committee,
Applicant(s): Valerie Lloyd (Council acting as the Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

ACME/VANZANDT FLOOD CONTROL SUBZONE ADVISORY COMMITTEE

3 Vacancies, 4-year terms. Applicants must live within the subzone boundary.

The Committee is an integral part of the program reviewing the Comprehensive Plan for flood control, discusses and recommends budget appropriation, and is a liaison with the public at meetings. The Committee has special meetings throughout the year as needed.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Lloyd Application



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APR 06 2022

WHATCOM COUNTY
COUNCIL

COUNCILMEMBERS
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

WHATCOM COUNTY COUNCIL

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Valerie Lloyd

Date: April 2, 2022



1. Name of board or committee-please see reverse: Acme/VanZand + Flood Control Sub-Zone
2. You must specify which position you are applying for. Advisory Committee member
Please refer to vacancy list.
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
(If applicable, please refer to vacancy list.) ----- ☒ yes () no
4. Which Council district do you live in? ----- () One () Two ☒ Three () Four () Five
5. Are you a US citizen? ----- ☒ yes () no
6. Are you registered to vote in Whatcom County? ----- ☒ yes () no
7. Have you ever been a member of this Board/Commission? ----- () yes ☒ no
If yes, dates: _____
8. Do you or your spouse have a financial interest in or are you an employee or officer of any
business or agency that does business with Whatcom County? ----- () yes ☒ no
If yes, please explain: _____
9. Have you declared candidacy (as defined by RCW 42.17A.055, see instructions) for a paid elected
office in any jurisdiction within the county? ----- () yes ☒ no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

10. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
I'm a retired teacher from Mt. Baker SD. I've lived east of Duncraig & in Acme area for almost 50 yrs. I've been involved in South Fork Nooksack Watershed committees for 10 yrs. Environmental resiliency & sustainability are important.
11. Please describe why you're interested in serving on this board or commission: Gaining knowledge & contributing locally.

References (please include daytime telephone number): Alex Harris alex.harris24@gmail.com

Signature of applicant: Valerie Lloyd

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-209

File ID:	AB2022-209	Version:	1	Status:	Agenda Ready
File Created:	03/28/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: Jill Nixon JNixon@co.whatcom.wa.us <<mailto:JNixon@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Appointment to a vacancy on the Board of Equalization, at-large alternate position - applicant(s) W.
Thomas Folis

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

BOARD OF EQUALIZATION

- 1 Vacancy, Applicants must live in County Council District 3.
- 1 Vacancy, Applicants must live in County Council District 5.
- 2 Vacancies, At-Large Alternates

Terms end 1/31/2025. The Board ensures that all properties are valued at 100% of market value. The Board may equalize property values by either lowering or raising land/building assessments. The Board generally meets on Wednesdays and Thursdays, with occasional Tuesday meetings as the caseload requires. Members receive \$75 per diem for attending hearings..

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Follis Application



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MAR 25 2022

WHATCOM COUNTY
BOARD OF EQUALIZATION

COUNCILMEMBERS

Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kathy Kershner

WHATCOM COUNTY COUNCIL

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: W. THOMAS FOLLIS Date: 3-24-2022

1. Name of board or committee-**please see reverse:** BOARD OF EQUALIZATION
2. You must specify which position you are applying for.
Please refer to vacancy list. MEMBER
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
(If applicable, please refer to vacancy list.) ☒ yes () no
4. Which Council district do you live in? () One ☒ Two () Three () Four () Five
5. Are you a US citizen? ☒ yes () no
6. Are you registered to vote in Whatcom County? ☒ yes () no
7. Have you ever been a member of this Board/Commission? () yes ☒ no
If yes, dates: _____
8. Do you or your spouse have a financial interest in or are you an employee or officer of any
business or agency that does business with Whatcom County? () yes ☒ no
If yes, please explain: _____
9. Have you declared candidacy (as defined by RCW 42.17A.055, see instructions) for a paid elected
office in any jurisdiction within the county? () yes ☒ no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

10. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
activities, and education. SEE ATTACHED LETTER

11. Please describe why you're interested in serving on this board or commission: I HAVE THE TIME, THE
KNOWLEDGE AND EXPERTISE TO ASSIST IN THE VALUATION AND ANALYSIS
PROCESS

References (please include daytime telephone number): SEE ATTACHED LETTER

Signature of applicant: [Signature]

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

3/24/22

Dear Ms. Schneider,

John Bruton contacted me on March 23 regarding the Whatcom County Board of Equalization. He inquired about my interest in being a member of the Board. I would be interested in being on the Board.

I recently retired from the real estate business after operating an appraisal and brokerage office for 51 years. I was a licensed Certified General Appraiser and broker. I completed in excess of 30,000 appraisals and evaluations in my career. I have a thorough knowledge of Whatcom County and am a life long resident for 77 years.

I have appraised properties of all types, including single family, multi-family, commercial, industrial, agricultural (dairy, berry and dry crop operations), condominiums, forest land and leasehold and leased fee interests.

I have also testified before the Board on many occasions as an expert so I am familiar with the Board's procedures. I was also recognized as an expert witness in District Court, Superior Court, and Federal Court relating to real estate and real property evaluation.

I am a past president of the Whatcom County Board of Realtors and was the chairperson of the City of Bellingham Civil Service Commission.

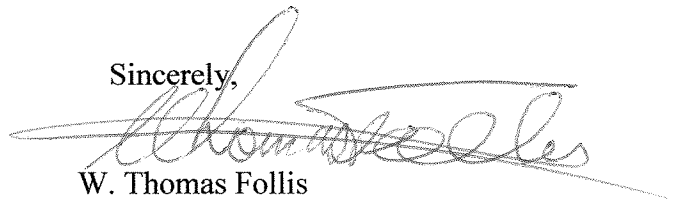
I am a military veteran and retired from the USAF as a Lt. Colonel.

From an educational standpoint, I graduated from Bellingham High School in 1962, the University of Washington in 1966, and received advanced degrees from Squadron Officers School and Air Command and Staff while in the USAF. I also completed numerous continuing education courses in real estate appraisal from 1980-2020. I was also on the faculty of Whatcom Community College an instructor in real estate.

Personal references are as follows:

1. Starck Follis ph# 360-739-9361
2. Terry Todd ph# 360-303-2698
3. Gary Tetrick ph3 360-961-5689
4. John Wittman ph# 509-953-3158
5. Glenn Crowe ph# 360-303-8610

Sincerely,



W. Thomas Follis



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-240

File ID:	AB2022-240	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: Jill Nixon JNixon@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Appointment to a vacancy on the Board of Equalization, District 3 position - applicant(s) David Simpson

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

BOARD OF EQUALIZATION

- 1 Vacancy, Applicants must live in County Council District 3.
- 1 Vacancy, Applicants must live in County Council District 5.
- 2 Vacancies, At-Large Alternates

Terms end 1/31/2025. The Board ensures that all properties are valued at 100% of market value. The Board may equalize property values by either lowering or raising land/building assessments. The Board generally meets on Wednesdays and Thursdays, with occasional Tuesday meetings as the caseload requires. Members receive \$75 per diem for attending hearings.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Simpson Application



WHATCOM COUNTY COUNCIL

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: David G Simpson

Date: 4-13-22

1. Name of board or committee-please see reverse: Board of Equalization
2. You must specify which position you are applying for.
Please refer to vacancy list. Dist 3
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
(If applicable, please refer to vacancy list.) ☒ yes ☐ no
4. Which Council district do you live in? ☐ One ☐ Two ☒ Three ☐ Four ☐ Five
5. Are you a US citizen? ☒ yes ☐ no
6. Are you registered to vote in Whatcom County? ☒ yes ☐ no
7. Have you ever been a member of this Board/Commission? ☒ yes ☐ no
If yes, dates: off and on from 2010 last term ended 1-2022
8. Do you or your spouse have a financial interest in or are you an employee or officer of any
business or agency that does business with Whatcom County? ☐ yes ☒ no
If yes, please explain: _____
9. Have you declared candidacy (as defined by RCW 42.17A.055, see instructions) for a paid elected
office in any jurisdiction within the county? ☐ yes ☒ no

You may attach a resumé or detailed summary of experience, qualifications, & interest in response to the following questions.

10. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
activities, and education. Construction draw inspector - past member of
the Whatcom Co planning comm., shoreland comm, 45 years in the
Title insurance and real estate industries in Whatcom County
11. Please describe why you're interested in serving on this board or commission:
I would like to serve another term

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APR 14 2022

References (please include daytime telephone number): upon request

WHATCOM COUNTY
BOARD OF EQUALIZATION

Signature of applicant: David G Simpson

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Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-254

File ID:	AB2022-254	Version:	1	Status:	Agenda Ready
File Created:	04/19/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: Jill Nixon JNixon@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Appointment to a vacancy on the Board of Equalization, District 5 position - applicant(s) James Day

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

BOARD OF EQUALIZATION

- 1 Vacancy, Applicants must live in County Council District 3.
- 1 Vacancy, Applicants must live in County Council District 5.
- 2 Vacancies, At-Large Alternates

Terms end 1/31/2025. The Board ensures that all properties are valued at 100% of market value. The Board may equalize property values by either lowering or raising land/building assessments. The Board generally meets on Wednesdays and Thursdays, with occasional Tuesday meetings as the caseload requires. Members receive \$75 per diem for attending hearings.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Day application



WHATCOM COUNTY COUNCIL

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Mr. James K. Jay Date: 18 APRIL 2022

1. Name of board or committee-please see reverse: BOARD OF EQUALIZATION
2. You must specify which position you are applying for.
Please refer to vacancy list. MEMBER BOE DISTRICT 5
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
(If applicable, please refer to vacancy list.) ☒ yes ☐ no
4. Which Council district do you live in? ☐ One ☐ Two ☐ Three ☐ Four ☒ Five
5. Are you a US citizen? ☒ yes ☐ no
6. Are you registered to vote in Whatcom County? ☒ yes ☐ no
7. Have you ever been a member of this Board/Commission? ☐ yes ☒ no
If yes, dates: _____
8. Do you or your spouse have a financial interest in or are you an employee or officer of any
business or agency that does business with Whatcom County? ☐ yes ☒ no
If yes, please explain: _____
9. Have you declared candidacy (as defined by RCW 42.17A.055, see instructions) for a paid elected
office in any jurisdiction within the county? ☐ yes ☒ no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

10. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
activities, and education.
RETIREE DENTIST, ORTHODONTIST; SEE ATTACHED

11. Please describe why you're interested in serving on this board or commission: PUBLIC SERVICE &
OPPORTUNITY TO GIVE BACK; CRITICAL & RATIONAL
APPROACH TO TAXATION MATTERS

References (please include daytime telephone number): ATTORNEY FREDERICK STORTZKY
518.853.835.2393

Signature of applicant: [Signature]

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

James Day, D.D.S., MEd.

Education:

Education Communications in Information Technology: M.Ed. University of Washington Seattle, WA.		2000
NIH, NIDCR Research Institute Fellowship Dental Public Health University of Washington School of Dentistry Seattle, WA.		1998
Fellowship Oral Medicine: Medically Compromised University of Washington Seattle, WA.		1995
Orthodontic Fellowship IAO, New England Hartford, Conn.	Certification	1989 - 1991
General Practice Residency USAF-Tucson, AZ.	General Practice Residency	1973 - 1974
Georgetown University School of Dentistry Washington, D.C.	D.D.S.	1969 - 1973
Hobart College Geneva, N.Y.	B.A.	1965 - 1969

Work Experience

Invisalign Treatment Practice Consultant and Mentor for multiple GP Practices, 117 E Louisa St. #508 Seattle, Wa. 98102	2016- present
General Dental Practice James K. Day DDS, MED, PC Suite D, 1100 N. San Francisco St, Flagstaff, AZ Sundance Dental Care Suite 104, 2620 S. 83rd Ave., Phoenix, Az. 85043	2001- 2018
International Speaker/Instructor for Invisalign Align Technologies 821 Martin Ave. Santa Clara, Ca. 95050	2003 - 2018

Owner, Developer and Subject Matter Expert Oral Score Diagnostic, Treatment Planning and Workflow Software OralScore, LLC 1100 N San Francisco St. Flagstaff, AZ	2013 - Present
Visiting Professor Northern Arizona University Flagstaff, AZ	2002 - 2005
Director, Professional Development Mercer Global Advisors 8655 E. Via de Ventura Scottsdale, Az. 85258	2000 – 2001
Lecturer Oral Medicine/Division of Information Technology and Research University of Washington, School of Dentistry Seattle, WA	1997 – 2000
Adjunct Faculty Department of Restorative Dentistry University of Washington, School of Dentistry Seattle, WA	1999 – 2000
General Dental Practice James K. Day DDS, PC Johnstown, N.Y.	1977 – 1997
Command Dental Surgeon USAF Communications Service Richards - Gebauer AFB. Kansas City, Mo.	1974 – 1977
Clinical Instructor/Adjunct Professor School of Dentistry University of Missouri at Kansas City Kansas City, Mo.	1974 - 1975

Faculty Experience

Department of Dental Hygiene, Northern Arizona University Flagstaff, AZ	Visiting Professor	2002 - 2005
Department of Oral Medicine, Department of Restorative Dentistry School of Dentistry University of Washington Seattle, Washington	Faculty/Lecturer Adjunct Faculty	1997 - 2001
Human Interface Technology Lab School of Engineering University of Washington Seattle, Washington	Advisor Faculty	1999-2000

Department of Restorative Dentistry School of Dentistry University of Missouri at Kansas City Kansas City, Mo.	Clinical Instructor	1974 -1975
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Hospital Affiliations

Flagstaff Medical Center Flagstaff, Az	Clinical	2004 - 2017
Nathan - Littauer Hospital Gloversville, N.Y.	Staff	1981 - 1997
Johnstown Community Hospital Johnstown, N.Y.	Staff	1977 - 1981
USAF Hospital Richards - Gebaur AFB Kansas City, MO.	Staff	1974 -1977
USAF Hospital Davis - Monthan AFB Kansas City, MO.	Staff	1973 -1974

Memberships and Offices

American Dental Association	1973 - present
Arizona State Dental Association	2000 - 2017
Washington State Dental Association	1998 - 2020
Federation of Special Care in Dentistry	1996 - 2000
Dental Society of the State of New York	1977 - 1998
FMH County Dental Society	1977 - 1998
Past President, FMH County Dental Society	1982
International Assoc. of Orthodontics	1989 -1998

Teaching Experience

Dental Materials and Techniques 428 ; Introduction to materials science and their application in Dental Practice

Oral Medicine 326; General Oral Medicine and treatment planning

Oral Medicine 528; Problem Oriented Case Planning; Treatment planning instruction in student group seminars.

Oral Medicine 460; Clinical Management of Patients with Disabilities; Attending Clinical Dentist, clinical instruction and direct provision of patient care.

Oral Medicine 633; Introduction to Educational Methods in Dentistry; Graduate Level instruction in teaching methods and instructionally designed models for learning.

Dental Materials 354, Introduction to Dental Materials and Techniques

Clinical instructor; Restorative Dentistry; clinical instruction and direct supervision of patient care.

Dental Affiliations

CODA, Council on Dental Accreditation: Dentist Member Credential Review Committee; 2016-present.

Vice – Chair, Standards Committee on Dental Informatics, American Dental Association, 2000 -2004.

Secretary, Section on Informatics, American Dental Education Association

Co – Chair, Standards for Dental Education and Research Working Group 5, Accredited Standards Committee Medical Devices 156, ADA Committee on Electronic Standards.
1997 - 2000.

American Dental Association Task Force on Distance Education and Electronic Learning, 1999

Contract Research, Optiva Corporation, 1996 – 2000.

Research Consultant/Dental Advisory Group, Digital Imaging, Eastman Kodak Corporation. 1995

Dental Consultant, Liberty Association for Retarded Citizens, Amsterdam, N.Y.1994

Licensure

New York State, 1977	inactive
Missouri, 1974	inactive
Washington State, 1996	current
Oregon, 2000	current
Arizona, 2001	current

Research

Sonic Toothbrush for Plaque Removal in Medically Compromised Populations, Optiva/Phillips Corporation.

Comparative Analysis of Digital Imaging vs. Analog film after Algorithm Application in Evaluation of Dental Pathology, Kodak Corporation.

Development and Implementation: Practitioner Referral Directory for Medically Complex Patients, Washington Dental Service, Seattle, Wa.

Grants

Sonic Toothbrush for Plaque Removal in Geriatric Nursing Home Populations, Optiva Corporation, 1996.

Comparative Evaluation of Digital vs. Analog film after algorithm application in evaluation of dental pathology, partially funded by Eastman Kodak Corporation, 1997-1998.

NIH/NIDCR Research Residency Grant, Specialized study in Biostatistics, Epidemiology, Study and Research design, 1998.

Sonic Toothbrush for Plaque Removal in Outpatient Medically Compromised Populations, Optiva Corporation. 1999 - 2000.

Development and Implementation of a Referral Directory for Practitioners Treating Patients with Special Needs and Patients Seeking Dental Treatment, NLM Family Foundation 1998

Washington State Internet based Practitioner Directory for public access by Populations with Medical, Physical and Psychological Impairments, Washington Dental Service 1999/2000.

Publications

Day J. The Quest for Information: A Guide to Searching the Internet. J Contemp Dent Pract 2001 Nov;(2)4: 033-043.

Day J., E-mail: A New Management Parameter. J Contemp Dent Pract 2001;(2)2: 072-081.

Day J. Privacy and Personal Health Data in Cyberspace: The Role and Responsibility of Healthcare Professionals. J Contemp Dent Pract 2001;(2)1: 045-056.

Day J., Meta- Evaluation of Digital Radiography,. Dentistry Today, June, 1998.

Day J. Martin, M. Chin, M., Efficacy of a Sonic Toothbrush for Plaque Removal in Geriatric/Special Needs Populations, Journal of Special Care, September/October, 1998.

Multimedia Publications

Occlusal Splints, in collaboration with Practical Clinical Courses and Dr. Gordon Christensen, 2001.

Pressed Ceramic Restorations, in collaboration with Practical Clinical Courses and Dr. Gordon Christensen, 2001.

Bleaching Vital Teeth, in collaboration with Practical Clinical Courses and Dr. Gordon Christensen, 2001.

Class II Resin-based Composites, in collaboration with Practical Clinical Courses and Dr. Gordon Christensen, 2001.

Safety Hazard and OSHA in the Healthcare Environment, An Interactive and Instructional Format for students, staff, and faculty, 2000.

On-line annotated abstract for support of evidence-based care in dentistry, American Dental Association Annual Meeting, Technology Day, 1999.

Practitioner and Patient Registry Database for Patients with Special Needs

Pediatric Patients and Allergic Reactions, patient-based interactive instruction, 1997.

Presentations

Multiple Speaking and Training Sessions for Align Technology throughout North America; 2001 – present.

Implant Site Development using orthodontic Clear Aligner protocol, International Association of Implant Prosthodontics; October, 2006.

Integrating Technology with Diagnosis and Treatment, Northern Arizona University Fall Meeting, September 27, 2002.

“On-Line Continuing Education”, ADA Annual Meeting, Honolulu, Hawaii, October 8, 1999.

"Electronic Technology Workshop", Pacific Northwest Dental Conference, Washington State Dental Association, Seattle, July 14, 15, and 16, 1999.

"The Future of Technology in Dentistry", Dental Information Technology Committee, ADA Board of Trustees, Chicago, April 15, 1999.

“Creating Access Through Electronic Databases”, National Oral Health Information Clearinghouse Coordinating Panel Meeting, Washington, D.C., November 20, 1998.

“Evidence – based support for the General Practitioner via the Internet”, Technology Day, American Dental Association Annual Meeting, San Francisco, Ca., October 23, 1998.

“Creating Access Through Electronic Databases”, Sixth National Oral Health 2000 Consortium, San Diego, Ca., September 12, 1998.

“Digital Radiological Imaging”, Guest Lecture in OM 580, Oral Medicine, University of Washington School of Dentistry, Summer 1998.

“Oral Health Considerations for Special Needs Populations”, University of Washington Physical Therapy Program, May 1995.

Community Service

Past-President and member, Johnstown Public Library Board of Trustees, Johnstown, N.Y., 1978-1997.

Past President and member, Board of Trustees, Johnstown YMCA, Johnstown, N.Y.

Participant and provider, Special Olympics; multiple national locations.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-231

File ID:	AB2022-231	Version:	1	Status:	Agenda Ready
File Created:	04/12/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment Requiring Introduction		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: Jill Nixon JNixon@co.whatcom.wa.us <<mailto:JNixon@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Receipt of application to a vacancy on the Board of Supervisors for Drainage Improvement District #7, Position 3, to serve a partial term until the next election in February 2024 - Applicant(s): Rodney Stump (deadline for additional applications for this position is 10 a.m., May 3, 2022)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Drainage Improvement District #7

1 vacancy, Supervisor Position 3. Appointed term will expire at the special district general election of February 2024. District boundary is located in the Custer area northerly of Ferndale. Unnamed tributary ditches to and the upstream reaches of California Creek, tributary to Drayton Harbor, are the primary channels.

Duties include field review of drainage needs, attending an annual meeting to determine the next year's work schedule and assessment levy, elect internal officers, and review, discuss, or act on any other official and district business. (RCW 85.06 and RCW 85.38.170 and .180)

All terms expire and all positions will be subject to election at the special district general election of February 2024. For more term information, call the Election Division of the County Auditor's Office at 360-778-5100.

HISTORY OF LEGISLATIVE FILE

Date:

Acting Body:

Action:

Sent To:

Attachments: Stump Application

Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

Title Mr.

First Name Rodney

Last Name Stump

Today's Date 4/12/2022

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

Do you live in & are you registered to vote in Whatcom County? Yes, No

Do you have a different mailing address? Field not completed.

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

Step 2

1. Name of Board or Committee Drainage Improvement District #7

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?	Yes
3. Which Council district do you live in?	District 5
4. Are you a US citizen?	Yes
5. Are you registered to vote in Whatcom County?	Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	No
7. Have you ever been a member of this Board/Commission?	Yes
If yes, please list dates:	2/2020 - 2/2022
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?	Yes
If yes, please explain	I am the Inspection Coordinator at BP Cherry Pt. My wife is the Development Director at Lynden Christian Schools
You may attach a resume or detailed summary of experience, qualifications, & interest in response to	<i>Field not completed.</i>

the following questions

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education	I am currently the Inspection Coordinator for BP Cherry Pt Refinery. I have owned my own general contracting business in the past and have been involved with many types of construction in the past 30years.
---	---

10. Please describe why you're interested in serving on this board or commission	Water drainage has been a huge issue lately in our area. I want to make sure my neighbors are being looked out for.
--	---

References (please include daytime telephone number):	Ed Pomeroy - 360-815- 7231
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Signature of applicant:	Rod Stump
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Place Signed / Submitted	Ferndale Wa
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(Section Break)



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-232

File ID:	AB2022-232	Version:	1	Status:	Agenda Ready
File Created:	04/12/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment Requiring Introduction		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: Jill Nixon JNixon@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Receipt of application to a vacancy on the Board of Commissioners for Drainage District #3, Position 1, to serve a partial term until the next election in February 2024 - Applicant(s): Roger Blok (Deadline for additional applications for these positions is 10 a.m., May 3, 2022)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Drainage District #3

2 vacancies, Commissioner Positions 1 and 3. Appointed term will expire at the special district general election of February 2024. District boundary is located 4-5 miles south of Lynden (Green Lake area). Fourmile Creek, tributary to Tenmile Creek/Nooksack River, is the primary channel.

Duties include field review of drainage needs, attending an annual meeting to determine the next year's work schedule and assessment levy, elect internal officers, and review, discuss, or act on any other official and district business. (RCW 85.06 and RCW 85.38.170 and .180)

All terms expire and all positions will be subject to election at the special district general election of February 2024. For more term information, call the Election Division of the County Auditor's Office at 360-778-5100.

HISTORY OF LEGISLATIVE FILE

Date:

Acting Body:

Action:

Sent To:

Attachments: Blok Application

Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

Title *Field not completed.*

First Name Roger

Last Name Blok

Today's Date 4/11/2022

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Do you live in & are
you registered to vote
in Whatcom County?

Yes

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Step 2

1. Name of Board or
Committee

Other

Other	Drainage District 3
2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?	Yes
3. Which Council district do you live in?	District 3
4. Are you a US citizen?	Yes
5. Are you registered to vote in Whatcom County?	Yes
6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county?	Yes
7. Have you ever been a member of this Board/Commission?	Yes
If yes, please list dates:	Since formed
8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?	No
You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions	<i>Field not completed.</i>

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education	Dairy farmer semi retired
---	---------------------------

10. Please describe why you're interested in serving on this board or commission	Collaborative effort to keep ditches functioning.
--	---

References (please include daytime telephone number):	Jason VanderVeen
---	------------------

Signature of applicant:	Roger Blok
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Place Signed / Submitted	Phoenix, AZ
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(Section Break)



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-241

File ID:	AB2022-241	Version:	1	Status:	Agenda Ready
File Created:	04/15/2022	Entered by:	JNixon@co.whatcom.wa.us		
Department:	Council Office	File Type:	Council Appointment Requiring Introduction		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: Jill Nixon JNixon@co.whatcom.wa.us <<mailto:JNixon@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Receipt of application to a vacancy on the Board of Supervisors for Consolidated Drainage Improvement District #20, Position 1, to serve a partial term until the next election in February 2024 - Applicant(s): Rodney Vande Hoef (deadline for additional applications for this position is 10 a.m., May 3, 2022)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Consolidated Drainage Improvement District #20

1 vacancy, Supervisor Position 1. District boundary encompasses the area located immediately east/southeast of Lynden. Moorman Ditch and Kamm (Ditch) Creek drainage channels, tributary to the Nooksack River, are the primary channels.

Duties include field review of drainage needs, attending an annual meeting to determine the next year's work schedule and assessment levy, elect internal officers, and review, discuss, or act on any other official and district business. (RCW 85.06 and RCW 85.38.170 and .180)

Applicants must be registered voters in the State of Washington and own land in the district they represent. Appointments are made by the County Council. Appointees will serve until the next special district election in February 2024.

HISTORY OF LEGISLATIVE FILE

Date:

Acting Body:

Action:

Sent To:

Attachments: Vande Hoef Application

RECEIVED

EXECUTIVE
Satpal Sidhu

APR 14 2022

WHATCOM COUNTY
COUNCIL



COUNCILMEMBERS

Barry Buchanan
Tyler Byrd
Todd Donovan
Ben Elenbaas
Carol Frazey
Kaylee Galloway
Kathy Kershner

WHATCOM COUNTY COUNCIL

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Rodney Vande Hoef

Date: 4-11-2022

1. Name of board or committee-**please see reverse:** Cong. Drainage Improvement
2. **You must specify which position you are applying for.**
Please refer to vacancy list. District # 20
3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
(If applicable, please refer to vacancy list.) ----- ☒ yes () no
4. Which Council district do you live in? ----- () One () Two () Three ☒ Four () Five
5. Are you a US citizen? ----- ☒ yes () no
6. Are you registered to vote in Whatcom County? ----- ☒ yes () no
7. Have you ever been a member of this Board/Commission? ----- ☒ yes () no
If yes, dates: Current, but didn't get paper work in time.
8. Do you or your spouse have a financial interest in or are you an employee or officer of any
business or agency that does business with Whatcom County? ----- () yes ☒ no
If yes, please explain: _____
9. Have you declared candidacy (as defined by RCW 42.17A.055, see instructions) for a paid elected
office in any jurisdiction within the county? ----- () yes ☒ no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

10. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. Dairy Farmer

11. Please describe why you're interested in serving on this board or commission: Have land in this drainage Dist.

References (please include daytime telephone number): 360-815-6147

Signature of applicant: Rodney Vande Hoef

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.



Whatcom County

COUNTY COURTHOUSE
311 Grand Avenue, Ste #105
Bellingham, WA 98225-4038
(360) 778-5010

Agenda Bill Master Report

File Number: AB2022-239

File ID:	AB2022-239	Version:	1	Status:	Agenda Ready
File Created:	04/14/2022	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Resolution Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	04/26/2022			Enactment #:	

Primary Contact Email: sdraper@co.whatcom.wa.us

TITLE FOR AGENDA ITEM:

Resolution vacating a portion of Wynn Road

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The attached resolution vacating a portion of Wynn Road is submitted per RCW 36.87 and WCC 12-20. The County Engineer's report has been prepared and is being submitted in favor of this road vacation. A public hearing will need to be scheduled

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Attachments: Memo, Resolution, Engineer's Report, Petition, Market Analysis, Assessor Map, Aerial Map



MEMORANDUM

To: The Honorable County Executive Satpal Singh Sidhu and Honorable Members of the County Council

Through: Jon Hutchings, Director

From: Andrew Hester, Real Estate Coordinator AH

Date: April 13, 2022

Re: A Resolution Vacating a Portion of Wynn Road

The attached petition asks for vacation of a portion of Wynn Road.

Based on a Fair Market Valuation (FMV) of surrounding comparable properties, the estimated value of the area to be vacated is approximately \$11,500.00.

Recommended Action

The County Engineer's report has been prepared and is being submitted as in favor of this road vacation. It is recommended that the County Council set a hearing date for the requested vacation request, publish the vacation request and direct County staff to post the appropriate public notices.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.

SPONSORED BY: _____

PROPOSED BY: _____ Public Works _____

INTRODUCTION DATE: _____

RESOLUTION NO. _____

A RESOLUTION VACATING A PORTION OF WYNN ROAD

WHEREAS, on April 6, 2021, Jody and Alan Kennedy (“Applicant”) submitted a petition for the vacation of a portion of Wynn Road lying within the unincorporated area of Whatcom County, accompanied by the penal sum of \$790.00; and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless, the Whatcom County Council may declare by resolution its intention to formally consider vacation; and

WHEREAS, the County Council voted 7-0 on August 10, 2021, to consider this vacation request and directed the County Engineer’s office to report; and

WHEREAS, the County Engineer’s office has reviewed the portion of the street which is a Class B-1 right-of-way, wherein no public expenditures were made or they are non-ascertainable from records, and no part thereof lies in any plat, and in the exercise of his judgment has determined that the public will benefit from said vacation; and

WHEREAS, it is unknown if there are public utilities located within the portion of the right-of-way to be vacated, but an easement for said utilities will be retained by the County, and

WHEREAS, the fair market value has been determined to be \$0.29 per square foot for the approximately 39,600 square feet of Wynn Road Right of Way, making the total value of the area to be vacated \$11,500.00; and

WHEREAS, the County Engineer has reviewed said compensation and determined it to be fair value; and

WHEREAS, the Applicant has met all of the petition requirements, as set forth by Chapter 12.20 Whatcom County Code, and all other applicable laws; and

WHEREAS, the Applicant has six calendar months from the date of the Preliminary Order of Vacation to pay any remaining fees to the Whatcom County Council office, which checks should be made payable to the Whatcom County Treasurer, prior to the vacation becoming effective, including but not limited to the appraised value of the area sought to be vacated; and

WHEREAS, this vacation does not become effective until the fees are paid and the Final Order and Resolution are recorded with the County Auditor;

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to vacate the following described right of way:

That portion of Wynn Road adjacent to Lot 23, and Lot 24, Plat of Alder Grove, recorded in Volume 2 of Plats, Page 91, Section 4, Township 38 North, Range 2 East, W.M as described within Whatcom County Auditor's File number 172865. Situate in Whatcom County, Washington.

SUBJECT TO and/or together with all easements, covenants, restrictions, and/or agreements of record or otherwise; and

SUBJECT TO an easement retained by the County in respect to the vacated portion of right-of-way for the construction, repair, and maintenance of any and all public utilities and services, now located on or in the vacated portion.

BE IT FURTHER RESOLVED that upon Applicants' completion of payment for the property and of all other fees, a Final Order of Vacation shall be prepared by Council Staff, signed by the appropriate parties, and recorded with the County Auditor; and

BE IT FURTHER RESOLVED that if the conditions set forth above are not fulfilled within six months from the date of the passage of this Resolution, the Preliminary Order of Vacation which is hereby authorized shall be withdrawn, and the right-of-way shall not be deemed to have been vacated.

APPROVED this _____ day of _____, 2022

ATTEST:
WASHINGTON

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY,

Dana Brown-Davis, County Clerk

Todd Donovan, Council Chair

APPROVED AS TO FORM:

Christopher Quinn
Civil Deputy Prosecutor
(authorized via email 4/13/2022)

REPORT OF THE COUNTY ENGINEER

(Whatcom County Code 12.20.050)

IN THE MATTER OF THE VACATION OF A COUNTY ROAD

Portion of Wynn Road adjacent to Lot 23 and Lot 24 Plat of Alder Grove

PETITIONED BY: Jody and Alan Kennedy et. al.

I, the undersigned County Engineer of Whatcom County, State of Washington, being duly directed by the Whatcom County Council to examine and report on County Road

Portion of Wynn Road adjacent to Lot 23 and Lot 24 Plat of Alder Grove, proposed for vacation by the petition of: Jody and Alan Kennedy, et. al.

did examine said road and report as follows:

IN FAVOR X

NOT IN FAVOR

Said road should be vacated.

Said road should not be vacated.

Compensation amount (12.20.050 B)
39,600 sq. ft. +- @ \$0.29/sq. ft. = \$11,500

Said road is now in use as a County road. 1.
It will be advisable to preserve this road.
The public will not be benefited by this vacation.

Classification (12.20.050 C[6])

Class A		Public expenditures made
Class B	X	No public expenditures made or non-ascertainable from records
Class 1	X	No part thereof lies in any plat
Class 2		Part or all lies within a platted subdivision
Class 3		Did not remain unopened for public use for five or more years after the order made or authority granted for opening it.
Class 4		Remained unopened for public use for five or more years after the order made or authority granted for opening it.
Class 5		Is contained within that portion of a plat which is to be replatted
Class 6		Abandoned in fact due to relocation of right-of-way
Class 7		Informalities exist in the records of title which are construed to invalidate and divest the public of any right, title, or interest in the right-of-way.

The public will be benefited by this vacation. yes X no

James P. Karcher
James P. Karcher, P.E.

Whatcom County Engineer

4-13-2022
Date

BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS

South End of Wynn Rd. at Marietta Ave.

Petitioned for by:

Jody and Alan Kennedy
et.al.

PETITION FOR VACATION
OF PLATTED ROAD

(RCW 58.17 AND 36.87)

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the undersigned and those signing attached petition, which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.
2. The road sought to be vacated is legally described as follows:
"That portion of Wynn Road adjacent to Lot 23, and Lot 24, Plat of Alder Grove, recorded in Volume 2 of Plats, Page 91, Section 4, Township 38 North, Range 2 East, W.M. Situate in Whatcom County, Washington."
3. The pertinent facts in support of this petition are: See attached, Exhibit (A)
4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment.
5. Petitioners will pay all costs and expenses incurred by the Count in examination, report, notice and proceedings pertaining to this petition.
6. A bond in the penal sum of \$790.00, payable to Whatcom County Treasurer, accompanies this petition.
7. The application fee accompanies this petition.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Alan J Kennedy 360-303-8209

alan@dentalparts.com

Signed this 6th day of April, 20 21.

Page 1 of 2

EXHIBIT (A)

Petition for Vacation of Platted Road

Whatcom County

Contact - Alan Kennedy

- 1) This section of road terminates in wetlands and has no prospect of future use.
- 2) This section of road has served as a late night rendezvous for nefarious individuals who congregate there in vehicles because it is a quiet corner away from the eyes of the law. Vacation would allow us to better light and maintain it as well as fence it off to vehicles.
- 3) This section of road has a history of vehicles missing the corner and driving into it. Vacation would remove the county from any future liability.
- 4) This section of road has been used as a dumping ground with no local enforcement (Reference photo below). Vacating it would allow us to maintain a visible presence and better discourage roadside dumping.



WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Alan Kennedy 3802044700320000

Steve Guyer 3802044340480000

PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

Bob Gallagher 3802044180900000

Gordon Lavigueure 3802044251700000

Clarke Lavigueure 3802043761690000

360-325-3763

Mike Kanda 3802044631240000

Edmund Bereal Jr 3802043020350000

Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2 of 2

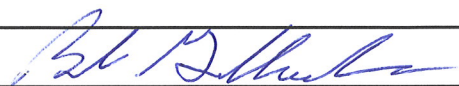
WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Alan Kennedy 3802044700320000

Steve Guyer 3802044340480000

PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

Bob Gallagher 3802044180900000 

Gordon Lavigueure 3802044251700000

Clarke Lavigueure 3802043761690000

Mike Kanda 3802044631240000

Edmund Bereal Jr 3802043020350000

Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Alan Kennedy 3802044700320000

Steve Guyer 3802044340480000

PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

Bob Gallagher 3802044180900000

Gordon Lavigueure 3802044251700000

Clarke Lavigueure 3802043761690000

Mike Kanda 3802044631240000

Edmund Bereal Jr 3802043020350000

Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

Page 2 of 2

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PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

Alan Kennedy 3802044700320000

Steve Guyer 3802044340480000

PERSONS OWNING PROPERTY WITHIN A ONE MILE RADIUS

Bob Gallagher 3802044180900000

Gordon Lavigueure 3802044251700000

Clarke Lavigueure 3802043761690000

Mike Kanda 3802044631240000



Edmund Bereal Jr 3802043020350000

Rick Akers 3802044320150000

The Evans/Kenney Partnership 3802045030320000

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

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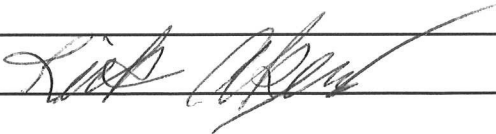
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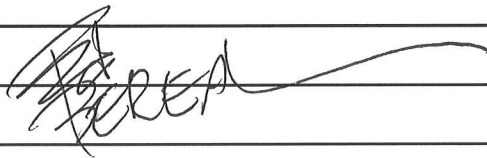
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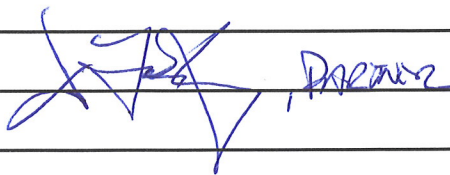
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Page 2 of 2



COMPARATIVE MARKET ANALYSIS – HORTON ROAD VACATION PETITION

PETITIONER: Jody and Alan Kennedy et. al.

PROPERTY LOCATION: Wynn Road Right of Way adjacent to Lot 23 and Lot 24 Plat of Alder Grove

OWNER NAME: Whatcom County

CURRENT USE: Vacant (unopened right-of-way)

AREA ZONING: Light Impact Industrial (LII)

BACKGROUND:

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the City of Bellingham et. al. are petitioning the County to vacate an area of approximately 39,600 square feet, more or less, consisting of the unopened right-of-way of Wynn Road.

SALES RELIED ON:

Three comparable land sales were used to prepare this market evaluation of the subject property and they sold between May 2021 to September 2021. Sale prices ranged from \$0.24 to \$0.76 per square foot.

Comparable #1 is located at 4518 Rural Avenue, approximately 3,000 feet west of the subject property. It is approximately 10.17 acres and has a 2 bedroom manufactured home on it. It sold on September 20, 2021 for \$450,000 with the land contributing approximately 75% of the value of the property or \$0.76 per square foot. The property is zoned "R5A".

Comparable #2 is located at 4167 Jones Lane, approximately 5,600 feet southwest of the subject property. It is approximately 3.71 acres and is vacant land. It sold on May 25, 2021 for \$120,000 or \$0.74 per square foot. The property is zoned "R5A".

Comparable #3 is located at 1509 Waldron Road, approximately 4,400 feet northeast of the subject property and is vacant land. It is approximately 9.54 acres. It sold on July 21, 2021 for \$100,000 or \$0.24 per square foot. The property is zoned "LII".



Averaging those three sales together arrives at \$0.58 per square foot. However, due to the topography and condition of the property and the likely presence of wetlands an adjustment is necessary to establish an estimated Fair Market Value (FMV). It is estimated that the subject property should be valued at 50% of \$0.58 per square foot value, arriving at an estimated FMV of \$0.29 per square foot.

RECOMMENDED COMPENSATION TO COUNTY for 39,600 square feet X \$0.29 per square foot = **\$11,500.00 (rounded)**

Prepared By: _____

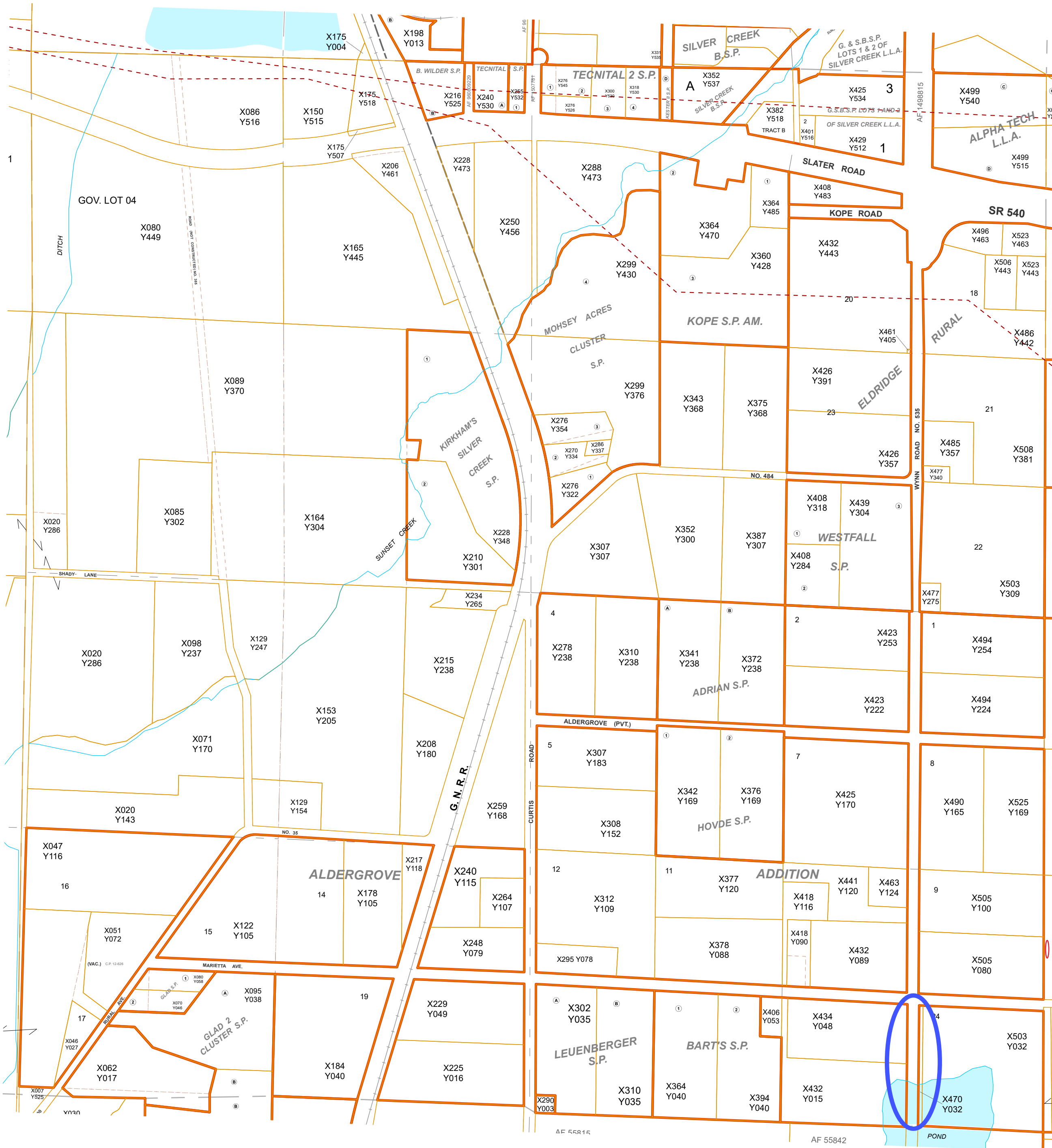
Andrew Hester, Real Estate Coordinator
Whatcom County Public Works

Date: _____

3-28-22

This market analysis does not constitute an appraisal as defined by USPAP.

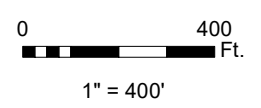
Need to confirm this doesn't violate State law body of water



TOWNSHIP:
38
RANGE:
02
SECTION:
04
MAP NO.:
01

KEY MAP:

32	33	34
05	04	03
08	09	10



- Tax Parcels
- Plats
- Lots
- Section Lines
- Qtr. Section Lines
- City Limits
- Annexations
- Railroads
- Pipelines
- Waterlines
- Waterbodies*

Whatcom County
Assessor's Office
Mar. 29, 2021

This map is for assistance in property location and not guaranteed for accurate measurements.

Geographic Tax Parcel Numbers (GID) are a 16-digit number derived from a combination of the Township, Range and Section, plus the XY coordinates of the theoretical center of the parcel, plus four trailing zeroes. The trailing zeroes are used where an auxiliary tax parcel exists at the same location as the primary parcel, such as, a condo unit or, a mobile home.

*Waterbodies provided for reference only; has not been verified by Assessor
For information on reading maps visit our website: whatcomcounty.us/177/Assessor



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