

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

Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

WHATCOM COUNTY COUNCIL

**COMBINED
AGENDA PACKET FOR
DECEMBER 3, 2019**

**INCLUDES INFORMATION
FOR THE FOLLOWING MEETINGS:**

FINANCE AND ADMINISTRATIVE SERVICE COMMITTEE (11 A.M.)

COMMITTEE OF THE WHOLE- EXECUTIVE SESSION (1:30 P.M.)

PUBLIC WORKS AND HEALTH COMMITTEE (2:30 P.M.)

**CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE (3:30 P.M.)
(ESTIMATED TIME – MEETING MAY BEGIN EARLIER/LATER THAN 3:30 P.M.)**

COUNCIL (7 P.M.)

UPCOMING MEETINGS AND EVENTS:

DECEMBER 24, 2019

HOLIDAY – OFFICE CLOSED

DECEMBER 25, 2019

HOLIDAY – OFFICE CLOSED

JANUARY 1, 2020

HOLIDAY – OFFICE CLOSED

JANUARY 13, 2020

**OATH OF OFFICE CEREMONY
COUNCIL CHAMBERS (TIME TO BE ANNOUNCED)
311 GRAND AVENUE, BELLINGHAM**

JANUARY 14, 2020

**REGULAR COUNCIL AND COMMITTEE MEETINGS
COUNCIL CHAMBERS
311 GRAND AVENUE, BELLINGHAM**

COMMITTEE AGENDAS

FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE

Members: Tyler Byrd, Carol Frazey, Satpal Sidhu

11 a.m. Tuesday, December 3, 2019

Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

County Executive's Report

Special Presentation

1. [AB2019-610](#) Report from Whatcom County's Information Technology Department
Page 1

Committee Discussion

1. AB2019-615 Discussion regarding ordinance amending Whatcom County Code, 16.30, Lake Whatcom Stormwater Utility Funding Mechanism, changing the date for collection of Capital Facility Charges from January 1, 2020 to January 1, 2021
Pages 2 - 5

Committee Discussion and Recommendation to Council

1. AB2019-611 Request authorization for the County Executive to enter into an agreement between Whatcom County and Trantech Engineering, in the amount of \$45,000
Pages 6 - 42
2. AB2019-612 Request authorization for the County Executive to enter into an agreement between Whatcom County and Sargent Engineers, Inc., in the amount of \$45,000
Pages 43 - 80
3. AB2019-625 Request authorization for the County Executive to sign an attorney engagement and contingency fee agreement between Whatcom County and Keller Rohrback L.L.P.
Pages 81 - 85
4. AB2019-601 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County Flood Control Zone District and Whatcom Conservation District to provide outreach and cost-share to support the Pollution Identification and Correction Program (PIC), in the amount of \$55,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)
Pages 86 - 96
5. AB2019-590 Ordinance amending the 2019 Whatcom County Budget, request no. 15, in the amount of \$49,400
Pages 97 - 105
6. AB2019-592 Ordinance establishing the Prox Lock Control Panel Replacement Fund and establishing a project based budget for the Prox Lock Control Panel Replacement Project
Pages 106 - 111
7. AB2019-619 Request authorization for the County Executive to enter into an Interlocal Agreement between Whatcom County and Kittitas County for the Housing of Inmates
Pages 112 - 127

8. AB2019-622 Request authorization for the County Executive to enter into an Interlocal Agreement between Whatcom County and the Cities of Bellingham, Blaine, Everson, Ferndale, Lynden and Sumas for the purpose of implementing a countywide wayfinding and gateway feature placement program
Pages 128 - 149
9. AB2019-623 Request approval of the Economic Development Investment (EDI) Board's recommendation for additional funding in the amount of \$500,000 and establishment of a \$2.2-million revolving loan fund for the Housing Affordability Through the Workforce Program (HATWF)
Pages 150 - 156
10. AB2019-616 Request authorization for the County Executive to enter into a contract between Whatcom County and Michael Bobbink for hearing examiner services
Pages 157 - 169
11. AB2019-626 Request authorization for the County Executive to enter into a contract between Whatcom County and North West Regional Council to provide Nursing Services at the Whatcom County Jail and Juvenile Detention in the amount of \$1,456,501.11
Pages 170 - 185
12. AB2019-591 Ordinance amending the 2020 Whatcom County Budget, request no. 2, in the amount of \$343,000
Pages 186 - 197

Council "Consent Agenda" Items

1. AB2019-598 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide case management and support services to individuals experiencing homelessness, in the amount of \$32,860 for a total amended contract amount of \$213,770
Pages 198 - 213
2. AB2019-599 Request authorization for the County Executive to enter into a contract between Whatcom County and Bellingham Whatcom County Tourism, in the amount of \$290,000, for the purposes of tourism marketing and operations
Pages 214 - 229
3. AB2019-602 Request authorization for the County Executive to enter into a contract between Whatcom County and Status Electrical Automation Systems to provide Security Electronics and DVMS System Support & Maintenance, in the amount of \$43,314.53
Pages 230 - 265
4. AB2019-613 Request authorization for the County Executive to enter into a Collective Bargaining Agreement between Whatcom County and General Teamsters' Local Union 231 Corrections Deputies and Sergeants for the period January 1, 2019 through December 31, 2020
Pages 266 - 323
5. AB2019-617 Request authorization for the County Executive to enter into a contract between Whatcom County and Summit Food Service to furnish food to inmates at the Whatcom County Jail in the amount of \$540,750.00
Pages 324 - 344
6. AB2019-618 Request authorization for the County Executive to enter into a contract between Whatcom County and Summit Food Service for Commissary Services to inmates at the Whatcom County Jail
Pages 345 - 363

7. AB2019-620 Request authorization for the County Executive to enter into a contract between Whatcom County and Birch Bay Chamber of Commerce in support of the Birch Bay Visitor Center operations and promotion of annual multi-day events designed to encourage tourism in the amount of \$100,000
Pages 364 - 379
8. AB2019-621 Request authorization for the County Executive to enter into a contract between Whatcom County and Mount Baker Foothills Chamber of Commerce in support of the Visitor Center operations in the amount of \$100,000
Pages 380 - 395
9. AB2019-629 Request approval for the County Executive to enter into a contract for the purchase, delivery, and installation of a modular building for the Point Roberts Transfer Station, in the amount of \$65,179.75
Pages 396 - 399

Other Business

Adjournment

COMMITTEE OF THE WHOLE

1:30 p.m. Tuesday, December 3, 2019

Conference Room, 311 Grand Avenue

Call To Order

Roll Call

Committee Discussion

1. AB2019-603 Discussion regarding a potential property acquisition for the Flood Control Zone District [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(b)]
Page 400
2. AB2019-628 Update on negotiations and planning strategy discussion regarding collective bargaining [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.140(4)(a)]
Page 401

Other Business

Adjournment

PUBLIC WORKS AND HEALTH COMMITTEE

Members: Barbara Brenner, Barry Buchanan, Carol Frazey

2:30 p.m. Tuesday, December 3, 2019

Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Special Presentation

1. [AB2019-609](#) Quarterly Report from Whatcom County Public Works
Page 402

Committee Discussion

1. [AB2019-631](#) Discussion regarding mandatory garbage collection at Point Roberts
Page 403

Other Business

Adjournment

CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE

Members: Barry Buchanan, Tyler Byrd, Carol Frazey

3:30 p.m. Tuesday, December 3, 2019

Council Chambers, 311 Grand Avenue

Call To Order

Roll Call

Committee Discussion and Recommendation to Council

1. AB2019-530 Resolution establishing a Stakeholder Advisory Committee for the Public Health, Safety, and Justice Facility Needs Assessment
Pages 404 - 408

Other Business

Adjournment

COUNCIL AGENDA

REGULAR COUNCIL MEETING

7 p.m. Tuesday, December 3, 2019

Council Chambers, 311 Grand Avenue

CALL TO ORDER

FLAG SALUTE

ROLL CALL

ANNOUNCEMENTS

If you will be handing out paperwork to councilmembers, please give one copy to the clerk for our office files. Thank you.

MINUTES CONSENT

1. MIN2019-118 Committee of the Whole AM for November 6, 2019
Pages 409 - 412
2. MIN2019-119 Committee of the Whole PM for November 6, 2019
Pages 413 - 416
3. MIN2019-120 Special Committee of the Whole for November 6, 2019
Page 417 - 421
4. MIN2019-121 Regular County Council for November 6, 2019
Pages 422 - 435
5. MIN2019-122 Surface Water Work Session for November 12, 2019
Pages 436 - 440
6. MIN2019-123 Special Council Meeting (Kendall) for October 29, 2019
Pages 441 - 444
7. MIN2019-126 Committee of the Whole - Executive Session for November 19, 2019
Pages 445 - 448

PUBLIC HEARINGS

Audience members who wish to address the council during a public hearing are asked to sign up at the back of the room before the meeting begins. The council chair will ask those who have signed up to form a line at the podium. Each speaker should state his or her 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 thirty seconds left to conclude their comments. When a large group of individuals supports the same position on an issue, we encourage the selection of one or two representatives to speak on behalf of the entire group.

1. AB2019-583 Resolution to sell tax-title property by public auction
Pages 449 - 452
2. AB2019-597 Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point UGA, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point
Pages 453 - 457
3. AB2019-606 Ordinance limiting 2020 property tax levy
Pages 458 - 460
4. AB2019-607 Ordinance limiting the 2020 General Fund tax levy
Pages 461 - 462

OPEN SESSION (20 MINUTES)

During open session, audience members can speak to the council on any issue not scheduled for public hearing. Each speaker should state his or her 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 thirty seconds left to conclude their comments.

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. AB2019-598 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide case management and support services to individuals experiencing homelessness, in the amount of \$32,860 for a total amended contract amount of \$213,770
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OTHER ITEMS

(From Council Finance and Administrative Services Committee)

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Pages 186 - 197
12. AB2019-616 Request authorization for the County Executive to enter into a contract between Whatcom County and Michael Bobbink for hearing examiner services
Pages 157 - 169

(From Council Criminal Justice and Public Safety Committee)

13. AB2019-530 Resolution establishing a Stakeholder Advisory Committee for the Public Health, Safety, and Justice Facility Needs Assessment
Pages 578 - 582

(No Committee Assignment)

14. AB2019-565 Ordinance amending the 2020 Whatcom County Budget, Request No. 1, in the amount of \$19,206,192
Pages 463 - 474
15. AB2019-472 Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County
Pages 475 - 479

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. AB2019-624 Request confirmation of the County Executive's appointment of Jon Maberry and Kendall Whitney to the Whatcom County Food System Committee
Pages 480 - 487

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. AB2019-480 Ordinance amending Whatcom County Code Chapters 11.16 and 11.20 to protect Lake Samish shoreline properties and Lake Samish water recreation
Pages 488 - 493
2. AB2019-614 Ordinance amending Whatcom County Code, 16.30, Lake Whatcom Stormwater Utility Funding Mechanism, changing the date for collection of Capital Facility Charges from January 1, 2020 to January 1, 2021
Pages 494 - 497

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: AB2019-610

File ID:	AB2019-610	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	SKorthui@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Report from Whatcom County's Information Technology Department

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Information Technology Department Manager Perry Rice will give his report to Council

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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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: AB2019-615

File ID:	AB2019-615	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	BBushaw@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Discussion regarding ordinance amending Whatcom County Code, 16.30, Lake Whatcom Stormwater Utility Funding Mechanism, changing the date for collection of Capital Facility Charges from January 1, 2020 to January 1, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Whatcom County Public works requests an amendment to Ordinance 2019-053, Lake Whatcom Stormwater Utility Funding Mechanism, to initiate the Capital Facilities Charges in January 2021 rather than January 2020. The requested time extension is needed to develop an effective collection process and to clarify ambiguous language included in Section 11 of Whatcom County Code 16.30

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Jon Hutchings
Director**



STORMWATER
322 N. Commercial, Suite 224
Bellingham, WA 98225
Main: (360) 778-6210
FAX: (360) 778-6201
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Jack Louws, County Executive and
The Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director

FROM: Kraig Olason, Stormwater Program Manager

DATE: November 19, 2019

RE: Request for Amendment to Ordinance 2019-053, Lake Whatcom
Stormwater Utility Funding Mechanism

Requested Action

The Public Works Department requests that County Council amend Ordinance 2019-053 to change the initiation date for collection of the Capital Facilities Charge (CFC) from January 1, 2020 to January 1, 2021.

Background and Purpose

Whatcom County Council adopted Ordinance 2019-053 (codified as WCC 16.30), the Lake Whatcom Stormwater Utility Funding Mechanism in July 2019. Section 11.0 of WCC 16.30 calls for collection of a one-time CFC on new residential and commercial developments, effective January 1, 2020. Public Works reviewed this ordinance language and finds that: (1) the language is ambiguous as to legislative intent, and (2) does not provide a convenient mechanism for fee collection. Public Works seeks to delay the implementation of this fee to January 1, 2021 to allow time to propose clarifying language and to develop a suitable fee collection method. The ordinance includes a phase-in provision for the annual rate fee portion of the ordinance wherein 50% of the annual unit rate fee is collected in 2020 and 100% is collected in 2021. Delaying the effective date of the CFC would be consistent with this phased approach.

Please contact Kraig Olason at 6301, if you have any questions or concerns regarding this request.

Encl.

ORDINANCE NO. _____

**AUTHORIZING A CHANGE TO ORDINANCE 2019-053, WHICH AUTHORIZED
CHARGES FOR STORMWATER CONTROL FACILITIES AND PROGRAMS IN THE LAKE
WHATCOM STORMWATER UTILITY SERVICE AREA, SPECIFICALLY EXTENDING
COLLECTION OF CAPITAL FACILITIES CHARGES TO 2021**

WHEREAS, the Whatcom County Council adopted Ordinance 2019-053 on July 23, 2019 authorizing fees for the Lake Whatcom Stormwater Utility; and

WHEREAS, Ordinance 2019-053 calls for one-time charges on new residential and commercial developments/structures, effective January 1, 2020; and

WHEREAS, certain provisions related to these Capital Development Charges are ambiguous and create unclear legislative intention around the extent and method for collection; and

WHEREAS, additional time is needed to clarify the terms of the ordinance and to develop a suitable method for collection of fees; and

WHEREAS, 2020 is established in the Ordinance as a phase-in period with collection of annual fees at 50%; and

WHEREAS, delaying implementation of the Capital Facilities Charge until January 1, 2021 will allow time to clarify the code language and develop a suitable fee collection method

1
2
3 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that
4 collection of the Capital Facility Charge established under Ordinance 2019-053 shall
5 prospectively begin on January 1, 2021.
6

7 **ADOPTED** this ____ day of _____, 20____.
8
9

10
11 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

12
13
14 _____
Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

15
16
17 WHATCOM COUNTY EXECUTIVE
18 APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

19
20 _____
21 Christopher Quinn, Civil Deputy
22 Prosecutor

Jack Lowes,
County Executive

() Approved () Denied

Date Signed: _____
23
24
25
26
27
28
29



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-611

File ID:	AB2019-611	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	SMock@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Agreement		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/03/2019	Enactment #:			

Primary Contact Email: sdraper@co.whatcom.wa.us <<mailto:sdraper@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Trantech Engineering, in the amount of \$45,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Local Agency Standard Consultant Agreement with Trantech Engineering, LLC for professional engineering services related to on-call structural engineering support for the Whatcom County Bridge Program in 2020

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Jon Hutchings
Director



JOSEPH P. RUTAN, P.E.
County Engineer / Assistant Director
322 N. Commercial St, Ste. 301
Bellingham, WA 98225-4052
Phone: (360) 778-6220
Fax: (360) 778-6221

Memo

To: The Honorable Jack Louws, Whatcom County Executive and
The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Public Works Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director *JPR FOR JOE RUTAN*
James E. Lee, P.E., Engineering Manager *JEL*

Date: November 15, 2019

Re: **2020 On-Call Support for the Whatcom County Bridge Program
Local Agency Standard Consultant Agreement for Trantech
Engineering, LLC**

Enclosed for your review and signature are two (2) originals of the Local Agency Standard Consultant Agreements between Trantech Engineering, LLC and Whatcom County.

Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to enter into a Local Agency Standard Consultant Agreement with Trantech Engineering, LLC for professional engineering services related to on-call structural engineering support for the Whatcom County Bridge Program in 2020.

Background and Purpose

Public Works is responsible for inspection, maintenance and repair of approximately 162 County-owned bridges which includes the Lummi Island Ferry terminal structures. This contract will allow Public Works to utilize Trantech Engineering, LLC for specific tasks related to structural analysis and design for bridge and ferry issues that may arise throughout the year. Individual task orders will be issued for these specific tasks.

Trantech Engineering was selected off of the annual Professional Architectural, Engineering and Other Services (RFQ #19-01) roster. After review by the selection panel Trantech Engineering, LLC was selected as the most qualified consultants for the work.

Funding Amount and Source

The not-to-exceed amount for this contract is \$45,000. Adequate budget authority exists for this expenditure within the Road Fund.

Please contact James Lee at extension 6264 if you have any questions or concerns regarding the terms of this agreement.

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): Trantech Engineering, LLC		
Address 12011 NE 1st Street Suite 306 Bellevue, WA 98005		Federal Aid Number
UBI Number 601-171-482		Federal TIN or SSN Number 68-0607809
Execution Date		Completion Date December 31, 2020
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Federal Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Project Title 2020 On-Call Support for the Whatcom County Bridge Program		
Description of Work <p>The Consultant, Trantech Engineering, LLC, shall provide structural analysis and design services related to the Whatcom County Bridge Program on an on-call basis. The County shall issue task orders for specific assignments under this agreement. The task orders shall define the scope of the task, the nature of the products and deliverables, and the allowable expenses to be billed for that task in accordance with Exhibit D. only those expenses specifically approved by the County in a task order shall be compensable under this agreement.</p> <p>The County makes no express or implied guarantees as the minimum amount of expenditures that shall be requested and approved under this agreement.</p>		
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation	Maximum Amount Payable: \$45,000

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the Whatcom County, hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absent of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: James E. Lee, P.E.
Agency: Whatcom County Public Works
Address: 322 N. Commercial Street, Ste. 301
City: Bellingham State: WA Zip: 98225
Email: jlee@co.whatcom.wa.us
Phone: (360) 778-6264
Facsimile:

If to CONSULTANT:

Name: Khashayar Nikzad, P.E.
Agency: Trantech Engineering, LLC
Address: 12011 NE 1st Street, Suite 305
City: Bellevue State: WA Zip: 98005
Email: knikzad@trantecheng.com
Phone: (425) 453-5545
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- A. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: James E. Lee, P.E., Engineering Manager

Agency: Whatcom County Public Works Department

Address: 322 North Commercial Street, Ste. 301

City: Bellingham State: WA Zip: 98225-4042

Email: jlee@co.whatcom.wa.us

Phone: (360) 788-6264

Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

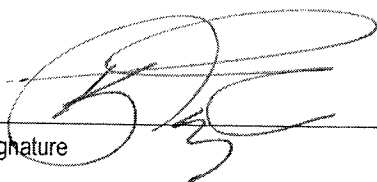
For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.


Signature

11/18/19
Date

(See Attached Signature Page)


Signature

Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

WHATCOM COUNTY:


Recommended for Approval:



Jon Hutchings
Department Director

11/20/19
Date

Approved as to form:



Christopher Quinn
Senior Civil Deputy Prosecuting Attorney

for 11/20/19
Date

Approved:

Accepted for Whatcom County:

Jack Louws
Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20_____, before me personally appeared Jack Louws, 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 _____

Exhibit A

Scope of Work

The Consultant, Trantech Engineering, LLC, shall provide structural analysis and design services related to the Whatcom County Bridge Program on an on-call basis. The County shall issue task orders for specific assignments under this agreement. The task orders shall define the scope of the task, the nature of the products and deliverables, and the allowable expenses to be billed for that task in accordance with Exhibit D. only those expenses specifically approved by the County in a task order shall be compensable under this agreement.

The County makes no express or implied guarantees as the minimum amount of expenditures that shall be requested and approved under this agreement.

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

B. Roadway Design Files

C. Computer Aided Drafting Files

D. Specify the Agency's Right to Review Product with the Consultant

E. Specify the Electronic Deliverables to Be Provided to the Agency

F. Specify What Agency Furnished Services and Information Is to Be Provided

II. Any Other Electronic Files to Be Provided

III. Methods to Electronically Exchange Data

A. Agency Software Suite

B. Electronic Messaging System

C. File Transfers Format

Exhibit D

Actuals Not To Exceed Table (ANTE)

TranTech Engineering, LLC
1221 Fraser Street; Suite E-3
Bellingham, WA 98229

Job Classifications	Direct Labor Rate NTE*	Overhead NTE*	Fixed Fee NTE	All Inclusive Hourly Billing Rate NTE
		148.97%		
Principal	\$91.67	\$136.56	\$27.50	\$255.73
Project Manager	\$66.95	\$99.74	\$20.09	\$186.77
Senior Structural Engineer	\$72.10	\$107.41	\$21.63	\$201.14
Senior Civil Engineer	\$61.80	\$92.06	\$18.54	\$172.40
Project Structural Engineer	\$61.80	\$92.06	\$18.54	\$172.40
Project Civil Engineer	\$51.50	\$76.72	\$15.45	\$143.67
Staff Structural Engineer II	\$46.35	\$69.05	\$13.91	\$129.30
Staff Structural Engineer I	\$43.26	\$64.44	\$12.98	\$120.68
Staff Civil Engineer	\$41.20	\$61.38	\$12.36	\$114.94
Senior CAD Technician	\$43.26	\$64.44	\$12.98	\$120.68
Construction Senior Inspector	\$61.80	\$92.06	\$18.54	\$172.40
Construction Inspector	\$46.35	\$69.05	\$13.91	\$129.30
Resident Engineer (QA/QC)	\$81.37	\$121.22	\$24.41	\$227.00
Specialty Technician	\$46.35	\$69.05	\$13.91	\$129.30
Administrative 3	\$41.20	\$61.38	\$12.36	\$114.94
Administrative 2	\$41.20	\$61.38	\$12.36	\$114.94
Administrative 1	\$20.60	\$30.69	\$6.18	\$57.47
Office Engineer	\$46.35	\$69.05	\$13.91	\$129.30



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 3, 2019

TranTech Engineering, LLC
12011 NE 1st Street, Suite 305
Bellevue, WA 98005

Subject: Acceptance FYE 2018 ICR – Audit Office Review

Dear Khashayar Nikzad:

Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2018 Indirect Cost Rate (ICR) of 148.97% of direct labor. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Contract Services Manager

EKJ:ah

Exhibit E

Sub-consultant Cost Computations

There is not any sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit G

Certification Document

Exhibit G-1(a) Certification of Consultant

~~Exhibit G-1(b) Certification of _____~~

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

Exhibit G-4 Certificate of Current Cost or Pricing Data

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Trantech Engineering, LLC

whose address is

365 118th Ave SE - Suite 100 - Bellevue, WA 98005

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the Whatcom County

and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Trantech Engineering, LLC

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

11/18/19
Date

Exhibit G-1(b) Certification of _____

I hereby certify that I am the:

☐

NOT APPLICABLE

☐

Other

of the _____, and _____
or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the _____
and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

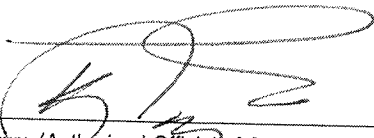
Date

Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

Trantech Engineering, LLC

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

11/18/19
Date

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

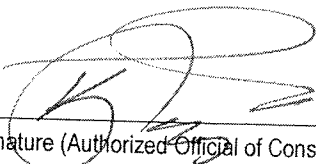
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the require certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Trantech Engineering, LLC

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

11/18/19
Date

Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of Scope and Fee Proposal * are accurate, complete, and current as of 11/18/19 **.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: Trantech Engineering, LLC

Signature

Title

Date of Execution

***.

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)
**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.
***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 Forward Documents to Local Programs

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit

Certificate of Liability Insurance



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-612

File ID:	AB2019-612	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	SMock@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Agreement		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an agreement between Whatcom County and Sargent Engineers, Inc., in the amount of \$45,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Local Agency Standard Consultant Agreement with Sargent Engineers, Inc. for professional engineering services related to on-call structural engineering support for the Whatcom County Bridge Program in 2020

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Jon Hutchings
Director



JOSEPH P. RUTAN, P.E.
County Engineer / Assistant Director
322 N. Commercial St, Ste. 301
Bellingham, WA 98225-4052
Phone: (360) 778-6220
Fax: (360) 778-6221

Memo

To: The Honorable Jack Louws, Whatcom County Executive and
The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Public Works Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director *JPR FOR JOE RUTAN*
James E. Lee, P.E., Engineering Manager *JEL*

Date: November 15, 2019

Re: **2020 On-Call Support for the Whatcom County Bridge Program**
Local Agency Standard Consultant Agreement for Sargent Engineers,
Inc.

Enclosed for your review and signature are two (2) originals of the Local Agency Standard Consultant Agreements between Sargent Engineering, Inc. and Whatcom County.

Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to enter into a Local Agency Standard Consultant Agreement with Sargent Engineering, Inc. for professional engineering services related to on-call structural engineering support for the Whatcom County Bridge Program in 2020.

Background and Purpose

Public Works is responsible for inspection, maintenance and repair of approximately 162 County-owned bridges which includes the Lummi Island Ferry terminal structures. This contract will allow Public Works to utilize Sargent Engineering, Inc. for specific tasks related to structural analysis and design for bridge and ferry issues that may arise throughout the year. Individual task orders will be issued for these specific tasks.

Sargent Engineering was selected off of the annual Professional Architectural, Engineering and Other Services (RFQ #19-01) roster. After review by the selection panel Sargent Engineering, Inc. was selected as the most qualified consultants for the work.

Funding Amount and Source

The not-to-exceed amount for this contract is \$45,000.00. Adequate budget authority exists for this expenditure within the Road Fund.

Please contact James Lee at extension 6264 if you have any questions or concerns regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Public Works - Bridge & Hydraulic
Division/Program: (i.e. Dept. Division and Program)	9050/Road Engineering
Contract or Grant Administrator:	James E. Lee, P.E., Engineering Manager
Contractor's / Agency Name:	Sargent Engineers, Inc.
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> 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 checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): RFQ #19-01 Contract Cost Center: 10855	
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"/> 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): \$ 45,000 This Amendment Amount: \$ _____ Total Amended Amount: \$ 45,000	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.
Summary of Scope: _____	
Local Agency Professional Services agreement between Whatcom County and Sargent Engineers, Inc. to provide structural engineering support to the Whatcom County bridge program.	
Term of Contract: Not to Exceed _____ Expiration Date: 12-31-2020	

Contract Routing:	1. Prepared by: James Lee	Date: 11-8-2019
	2. Attorney signoff: Christopher Quinn	Date: 11-8-2019
	3. AS Finance reviewed: bbenett	Date: 11-8-2019
	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: _____

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): Sargent Engineers, Inc.	
Address 320 Ronlee Lane NW, Olympia, WA 98502	Federal Aid Number
UBI Number 600560818	Federal TIN or SSN Number 91-1273873
Execution Date	Completion Date December 31, 2020
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Project Title 2020 On-Call Support for the Whatcom County Bridge Program	
Description of Work <p>The Consultant, Sargent Engineers, Inc. shall provide structural analysis and design services related to the Whatcom County Bridge Program on an on-call basis. The County shall issue task orders for specific assignments under this agreement. The task orders shall define the scope of the task, the nature of the products and deliverables, and the allowable expenses to be billed for that task in accordance with Exhibit D. only those expenses specifically approved by the County in a task order shall be compensable under this agreement.</p> <p>The County makes no express or implied guarantees as the minimum amount of expenditures that shall be requested and approved under this agreement.</p>	
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation
Maximum Amount Payable: \$45,000	

Index of Exhibits

Exhibit A	Scope of Work
Exhibit B	DBE Participation/SBE Plan
Exhibit C	Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D	Prime Consultant Cost Computations
Exhibit E	Sub-consultant Cost Computations
Exhibit F	Title VI Assurances
Exhibit G	Certification Documents
Exhibit H	Liability Insurance Increase
Exhibit I	Alleged Consultant Design Error Procedures
Exhibit J	Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the Whatcom County, hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is, a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absent of a mandatory UDBE, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall submit a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation. Non-minority, woman owned DBEs does not count towards UDBE goal attainment.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: James E. Lee, P.E.
Agency: Whatcom County Public Works
Address: 322 N. Commercial Street, Ste. 301
City: Bellingham State: WA Zip: 98225
Email: jlee@co.whatcom.wa.us
Phone: (360) 778-6264
Facsimile:

If to CONSULTANT:

Name: Monte Smith
Agency: Sargent Engineers, Inc.
Address: 320 Ronlee Lane NW
City: Olympia State: WA Zip: 98502
Email: montes@sargentengineers.com
Phone: (360) 867-9284
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E" will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

- A. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- B. Maximum Amount Payable: The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- C. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- D. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

E. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

Agreement Number:

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964
(42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973
(29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: James E. Lee, P.E., Engineering Manager
Agency: Whatcom County Public Works Department
Address: 322 North Commercial Street, Ste. 301
City: Bellingham State: WA Zip: 98225-4042
Email: jlee@co.whatcom.wa.us
Phone: (360) 788-6264
Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars (\$100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained, and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.



Signature

11/14/19

Date

(See Attached Signature Page)

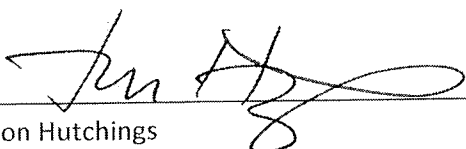
Signature

Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

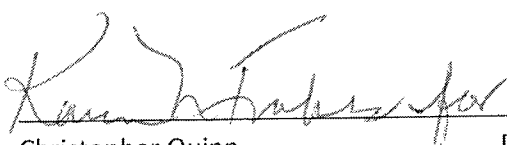
WHATCOM COUNTY:

Recommended for Approval:

 11/20/19

Jon Hutchings Date
Department Director

Approved as to form:

 for 11/20/19

Christopher Quinn Date
Senior Civil Deputy Prosecuting Attorney

Approved:

Accepted for Whatcom County:

Jack Louws
Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20_____, before me personally appeared Jack Louws, 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 _____

The Consultant, Sargent Engineers, Inc. shall provide structural analysis and design services related to the Whatcom County Bridge Program on an on-call basis. The County shall issue task orders for specific assignments under this agreement. The task orders shall define the scope of the task, the nature of the products and deliverables, and the allowable expenses to be billed for that task in accordance with Exhibit D. Only those expenses specifically approved by the County in a task order shall be compensable under this agreement.

The County makes no express or implied guarantees as the minimum amount of expenditures that shall be requested and approved under this agreement.

Exhibit C

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

B. Roadway Design Files

C. Computer Aided Drafting Files

D. Specify the Agency's Right to Review Product with the Consultant

E. Specify the Electronic Deliverables to Be Provided to the Agency

F. Specify What Agency Furnished Services and Information Is to Be Provided

II. Any Other Electronic Files to Be Provided

III. Methods to Electronically Exchange Data

A. Agency Software Suite

B. Electronic Messaging System

C. File Transfers Format

**Actuals Not To Exceed (ANTE)
Rates Table**

**Sargent Engineers, Inc.
320 Ronlee Lane NW
Olympia, WA 98502**

Job Classifications	Direct Labor Rate NTE	Overhead 200.00% NTE	Fixed Fee 30.00% NTE	All Inclusive Hourly Billing Rate NTE
Principals	\$65.00	\$130.00	\$19.50	\$214.50
Senior Engineers	\$60.00	\$120.00	\$18.00	\$198.00
Senior Project Engineers	\$60.00	\$120.00	\$18.00	\$198.00
Project Engineers	\$52.00	\$104.00	\$15.60	\$171.60
Design Engineers	\$44.00	\$88.00	\$13.20	\$145.20
Engineering Technician	\$36.00	\$72.00	\$10.80	\$118.80
Engineering Intern	\$29.00	\$58.00	\$8.70	\$95.70
Drafter II	\$35.00	\$70.00	\$10.50	\$115.50
Business Manager	\$49.00	\$98.00	\$14.70	\$161.70
Business Associate	\$34.00	\$68.00	\$10.20	\$112.20
Clerical	\$29.00	\$58.00	\$8.70	\$95.70



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

April 10, 2019

Sargent Engineers, Inc.
320 Ronlee Lane NW
Olympia, WA 98502

Subject: Acceptance FYE 2018 ICR – CPA Report

Dear Jan Smith:

We have accepted your firms FYE 2018 Indirect Cost Rate (ICR) of 204.54% based on the “Independent CPA Report,” prepared by Shannon & Associates. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 705-7019** or via email consultantrates@wsdot.wa.gov.

Regards;

ERIK K. JONSON
Contract Services Manager

EKJ:mya

Exhibit E

Sub-consultant Cost Computations

There is not any sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Exhibit G

Certification Document

Exhibit G-1(a) Certification of Consultant

~~Exhibit G-1(b) Certification of _____~~

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

Exhibit G-4 Certificate of Current Cost or Pricing Data

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
Sargent Engineers, Inc.

whose address is

320 Ronlee Lane NW, Olympia, WA 98502

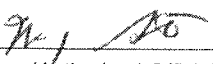
and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the Whatcom County
and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Sargent Engineers, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

11/14/15
Date

Exhibit G-1(b) Certification of _____

I hereby certify that I am the:

☐

NOT APPLICABLE

☐

Other

of the _____, and _____

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the _____

and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature


Date

Exhibit G-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

Sargent Engineers, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)

11/14/19
Date

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Sargent Engineers, Inc.

Consultant (Firm Name)


Signature (Authorized Official of Consultant)



Date

Exhibit G-4 Certification of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of Scope and Fee Proposal * are accurate, complete, and current as of _____ **.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: Sargent Engineers, Inc.

[Signature]
Signature

Principal
Title

Date of Execution _____ ***.

*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

**Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

***Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 Forward Documents to Local Programs

For federally funded projects, all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit

Certificate of Liability Insurance



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-625

File ID:	AB2019-625	Version:	1	Status:	Agenda Ready
File Created:	11/21/2019	Entered by:	NHanson@co.whatcom.wa.us		
Department:	Council Office	File Type:	Agreement		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to sign an attorney engagement and contingency fee agreement between Whatcom County and keller Rohrback L.L.P.

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Authorization for the County Executive to sign an attorney engagement and contingency fee agreement between Whatcom County and Keller Rohrback L.L.P.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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ATTORNEY ENGAGEMENT & CONTINGENCY FEE AGREEMENT

It is HEREBY ACKNOWLEDGED AND AGREED by and between Whatcom County (“Client”) and Keller Rohrback L.L.P. (“Attorneys”) as follows:

1. **Employment.** Client hereby retains Attorneys to represent Client with respect to potential claims against the manufacturers and wholesalers of e-cigarettes and related products, including Juul Labs, Inc., and its corporate affiliates. Attorneys will assist Client in gathering information and data relevant to Client’s potential claims. Attorneys will also advise Client with respect to those potential claims. At Client’s request, Attorneys will institute proceedings to seek remedies on Client’s behalf as Client and Attorneys conclude is appropriate and advisable (“the Lawsuit”).
2. **Responsibility of Attorneys.** Although the individual attorneys listed below will be primarily responsible to represent Client in this matter, other members of Keller Rohrback may work on Client matters in accordance with their areas of practice. The primary attorneys representing Client are Derek Loeser, Dean Kawamoto, and Alison Gaffney. Attorneys will consult with Client in connection with any settlement proposal before accepting same.
3. **Responsibility of Client.** Client will maintain control of the litigation. Client agrees to timely comply with Attorneys’ requests. Client agrees to advise Attorneys of all facts, knowledge, or information relevant to Attorneys’ representation of Client, including facts, knowledge, or information which come to Client’s attention after execution of this Agreement.
4. **Client Representative.** Client designates Karen N. Frakes, Chief Civil Deputy Prosecuting Attorney, to be the Client’s Representative. The Client’s Representative is responsible for receiving all communications from Attorneys and transmitting all communications from Client to Attorneys. Client agrees that Attorneys may rely on Client’s Representative’s statements as an accurate reflection of Client’s position and desires. Attorneys agree to keep the Client’s Representatives informed of all significant developments regarding the representation.
5. **Attorneys’ Fees.** Other than as set forth in Paragraph 8, below, the fees that Client agrees to pay Attorneys (“Attorneys’ Fee” or “Attorneys’ Fees”) will depend on the outcome of the Lawsuit, as set forth here:
 - a. “Sums Recovered” means all monies (and the value of any other property) actually paid in settlement of or judgment on the Lawsuit’s claims (including the settlement of any demand made by Attorneys on Client’s behalf before initiation of the Lawsuit), including any monies paid in settlement or judgment as an award

of attorneys' fees, costs, or interest.

- b. If the Sums Recovered is an amount less than or equal to \$100 million, the Attorneys' Fee shall be 15% of the recovery;
- c. If the Sums Recovered is an amount greater than \$100 million but less than or equal to \$300 million, the Attorneys' Fee shall equal the amount specified in Section 5(b) above, plus 13% of any Sums Recovered in the \$100 million to \$300 million range.
- d. If the Sums Recovered is an amount greater than \$300 million, the Attorneys' Fee shall equal the amount specified in Sections 5(b) and 5(c) above, plus 5% of any Sums Recovered in excess of \$300 million.
- e. If the Lawsuit proceeds to trial, Attorneys will be entitled to an additional 2% of Sums Recovered specified in 5(a)-5(d).
- f. If the Lawsuit proceeds to trial and the court awards Client a monetary judgment and an attorneys' fee, and the attorneys' fee is greater than the percentage Attorneys would be entitled to under Section 5(a)-(f), then Attorneys will be entitled to the full attorneys' fee awarded by the Court.

NO ATTORNEYS' FEES SHALL BE PAID IF NO RECOVERY IS MADE.

- 6. **Advice Concerning Attorneys' Fee.** Client has been informed of the alternative of employing Attorneys on an hourly fee bases. This alternative would require the payment of a \$25,000 retainer at commencement of the representation, payment of costs as incurred, and payment of legal fees each month for legal services. In deciding to engage Attorneys on a contingency fee basis, Client has considered the risks involved in this case, the experience and reputation of Attorneys, and the uncertainty regarding the number of hours required to prosecute the case.
- 7. **Costs.** Attorneys will advance all "out-of-pocket" costs, fees, and expenses incurred by Attorneys in pursuing the Lawsuit ("Costs"). Notwithstanding the foregoing, Attorneys agree to notify and obtain Client's consent before incurring Costs aggregating more than \$10,000 in any single month.

Client understands that Attorneys shall seek reimbursement from defendants for all Costs actually expended, but that there is no guarantee that Costs will be reimbursed by the defendants to Attorneys. Attorneys will be reimbursed for all Costs out of any settlement or recovery in addition to any Attorneys' Fees they receive under Paragraphs 5 or 8, as the case may be. Attorneys shall be reimbursed for Costs first, from any monies paid by a

defendant on account of Cost reimbursement and, if such monies are insufficient, from any monies paid as part of the Sums Recovered.

Attorneys may, with Client's prior consent which shall not unreasonably be withheld, hire any expert or consultant whose services Attorneys advises Client is necessary for the evaluation or prosecution of any of the claims within the scope of the Lawsuit.

8. **Withdrawal or Discharge.** Subject to Court rules and other applicable laws, Attorneys shall have the right to withdraw from representation of Client upon giving reasonable notice of the intention to withdraw. In the event of withdrawal of Attorneys or discharge of Attorneys by Client, Attorneys may seek reasonable fees for services rendered according to the terms of Paragraph 5, above. Client shall have the right to discharge Attorneys at any time. If Client discharges Attorneys, Attorneys retain the right to seek reasonable fees for services rendered according to the terms of Paragraph 5, above.
9. **Venue and Attorneys' Fees.** The Parties agree that in the event any dispute should arise with respect to this Agreement, venue shall lie in Bellingham, Washington. Further, the prevailing party in such an action shall be awarded reasonable costs and attorneys' fees.
10. **Outcome.** Attorneys do not guarantee or represent a particular result in this Lawsuit. Client understands the risks associated with pursuing this Lawsuit.
11. **No Other Agreements.** Client has read this contract, has received a copy of it, and agrees to its terms and conditions. There are no oral or other agreements between Client and Attorneys. This Agreement when signed below by Client replaces any prior understandings or oral agreement between Client and Attorneys.
12. **Governing Law.** This Agreement and all aspects of the Parties' relationship shall be construed under the laws of the State of Washington, without regard to choice of law principles.
13. **Other Provisions.** This Agreement may be executed in one or more counterparts and transmitted by mail, overnight delivery service, and/or email, each one of which shall constitute an original and all of which shall constitute one and the same document.

DATED: _____

CLIENT SIGNATURE

ATTORNEY ENGAGEMENT & CONTINGENCY FEE
AGREEMENT

Keller Rohrback LLP
1201 Third Avenue, Suite 3200
Seattle, WA 98101

ACCEPTED: Keller Rohrback L.L.P.

By: 

Derek W. Loeser

Dated: 11/20/19

4842-9142-5629, v. 1

ATTORNEY ENGAGEMENT & CONTINGENCY FEE
AGREEMENT

Keller Rohrback LLP
1201 Third Avenue, Suite 3200
Seattle, WA 98101



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-601

File ID:	AB2019-601	Version:	1	Status:	Agenda Ready
File Created:	11/19/2019	Entered by:	RKlein@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Contract (FCZDBS)		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County Flood Control Zone District and Whatcom Conservation District to provide outreach and cost-share to support the Pollution Identification and Correction Program (PIC), in the amount of \$55,000 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This interlocal agreement between the Whatcom County Flood Control Zone District and Whatcom Conservation District will enhance and support elements of Whatcom County's Pollution Identification and Correction (PIC) Program. This agreement will provide community outreach and financial assistance and incentives to landowners and operators with non-dairy agricultural operations in PIC areas

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

Jon Hutchings
Director



NATURAL RESOURCES

322 N. Commercial, Suite 110
Bellingham, WA 98225
Telephone: (360) 778-6230
FAX: (360) 778-6231
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Jack Louws, County Executive for the Whatcom County Flood Control Zone District (FCZD)
Honorable Members of the Whatcom County FCZD Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director *JH*

FROM: Gary Stoyka, Natural Resources Manager *GS*
Erika Douglas, Senior Planner *ED*

DATE: November 15, 2019

RE: Interlocal Agreement with the Whatcom Conservation District for Pollution Identification and Correction (PIC) Program Non-Dairy Agriculture Outreach and Financial Assistance

Please find enclosed for your review and signature two (2) originals of an interlocal agreement between Whatcom County Flood Control Zone District and the Whatcom Conservation District in the amount of \$55,000 to provide community outreach and cost-share to support the Pollution Identification and Correction (PIC) Program.

Requested Action

Public Works respectfully requests that the County Executive, acting for the Whatcom County Flood Control Zone District (FCZD) Board of Supervisors, execute the attached interlocal agreement.

Background and Purpose

This interlocal agreement will provide funding to the Whatcom Conservation District to implement community outreach activities and manage the financial assistance and incentives program for landowners and operators with non-dairy agricultural operations in Whatcom County PIC areas.

Funding Amount and Source

This interlocal agreement with the Whatcom Conservation District will provide \$55,000 to support the non-dairy agriculture component of the Whatcom County PIC program through a partnership with the Whatcom Conservation District. This agreement will be funded through the 2020 FCZD budget for Public Works- Natural Resources programs.

Please contact Erika Douglas at extension 6294 or Gary Stoyka at extension 6218, if you have any questions or concerns regarding the terms of this agreement.

Encl.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Public Works
Division/Program: (i.e. Dept. Division and Program)	Natural Resources- PIC Program (950530)
Contract or Grant Administrator:	Erika Douglas
Contractor's / Agency Name:	Whatcom Conservation District
<p>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"/></p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____</p> <p>Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 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? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____</p> <p>Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____</p> <p>Is this contract the result of a RFP or Bid process? Contract Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Cost Center: 813002</p> <p>Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.</p> <p>If YES, indicate exclusion(s) below:</p> <p><input type="checkbox"/> Professional services agreement for certified/licensed professional.</p> <p><input checked="" type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</p> <p><input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000.</p> <p><input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</p>	
<p>Contract Amount:(sum of original contract amount and any prior amendments): \$ 55,000</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.
<p>Summary of Scope: The purpose of this interlocal agreement is to identify the activities that will be conducted by the WCD to provide outreach and financial assistance to landowners/operators with non-dairy agriculture in support of and in coordination with the Whatcom County PIC Program.</p>	
Term of Contract: 1/1/20-12/31/20	Expiration Date: 12/31/20

Contract Routing:

1. Prepared by: ED	Date: 11/15/19
2. Attorney signoff: Christopher Quinn	Date: 11/15/2019
3. AS Finance reviewed: M Caldwell	Date: 11/15/19
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:

2020 INTERLOCAL AGREEMENT
WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT- WHATCOM CONSERVATION DISTRICT
Pollution Identification and Correction (PIC) Program
Non- Dairy Agricultural Best Management Practices Outreach and Cost-Share

WHEREAS, Whatcom County Flood Control Zone District, hereinafter referred to as the "County" and the Whatcom Conservation District, hereinafter referred to as the "WCD", desire to establish an arrangement wherein the County will provide funding to the WCD to provide community outreach and financial assistance programs for the non-dairy agriculture best management practices component of the Whatcom County Pollution Identification and Correction (PIC) program to the mutual advantage of each jurisdiction; and,

WHEREAS, the Drayton Harbor Shellfish Recovery Plan identified a coordinated water quality monitoring program to identify pollution sources and increased capacity for following up on monitoring findings as high priorities; and,

WHEREAS, the Portage Bay Shellfish Recovery Plan identified a Whatcom County PIC program as the highest priority recommendation; and,

WHEREAS, a PIC program is a data-driven program guiding pollution-tracking activities to areas with the greatest water quality problems, followed by technical and financial assistance offered to landowners to implement fixes to improve and protect water quality; and,

WHEREAS, agricultural activities have been identified as one priority source of bacteria in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts and other coastal watersheds; and,

WHEREAS, the WCD provides local expertise and technical assistance to landowners with livestock to support development and implementation of farm plans; and,

WHEREAS, the WCD also administers landowner incentive and cost-share programs including CREP and Washington State Conservation Commission (WSCC) Livestock Cost-share Program for Whatcom County; and

WHEREAS, a more flexible cost-share option is needed to provide financial assistance to landowners with small farms that do not meet the requirements of existing federal and state cost-share programs; and

WHEREAS, the most efficient use of resources is to have the WCD supplement its outreach and cost-share programs consistent with the specific needs of the Whatcom County PIC program as described in Exhibit A to help improve and protect water quality in the Drayton Harbor, Portage Bay, and Birch Bay Shellfish Protection Districts as well as other coastal watersheds; and

WHEREAS, it is in the best interest of each party to enter into this Interlocal Agreement;

NOW THEREFORE, the WCD and County agree as follows:

- I. *Purpose:* The purpose of this agreement is to set the terms whereby the County will make funds available to the WCD to implement an outreach and cost-share program for landowners/operators with non-dairy agricultural operations in PIC program focus areas as described in Exhibit A attached hereto.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this agreement.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to implement the non-dairy agriculture outreach and cost-share program as described in Exhibit A attached hereto.
- IV. *Whatcom County Responsibilities:* The County hereby agrees to reimburse the WCD, not to exceed the total budget amount allocated to the WCD as shown in Exhibit B attached hereto, for the costs of providing and performing the services stated.
- V. *Payment:* Contractor shall submit itemized invoices in a format approved by the County. Each request for payment shall include invoices which detail work performed and supplies or materials purchased. Each request for reimbursement of payments to landowners will include copies of equipment, supply or vendor receipts and substantiation for equipment and labor hours paid. The County will compensate the WCD for services rendered within thirty (30) days following receipt of an approved invoice, provided all other terms and conditions of the contract have been met and are certified as such by the Contract Administrator.
- VI. *Term:* This Agreement shall be effective for services performed from January 1, 2020 through December 31, 2020.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the Whatcom County Public Works (WCPW) Department Director and the WCD Executive Director or their respective designees.
- VIII. *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.
- IX. *Indemnification:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- X. *Modifications:* This 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.
- XI. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

- XII. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- XIII. *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.
- XIV. *Recordation:* Upon execution of this Agreement, and prior to its entry into force, Whatcom County shall file a copy of it with the office of its County Auditor or alternatively list it by subject on its web site or other electronically retrievable public source, pursuant to the requirements of RCW 39.34.040.

IN WITNESS WHEREOF, the parties have signed this Agreement this _____ day of _____, 2019.

WHATCOM CONSERVATION DISTRICT

By *Heather Christianson*
Heather Christianson, WCD Chair

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT

By _____
Jack Louws, County Executive

Approved as to form:

[Signature]
Office of the WCD Attorney

Approved as to form:

[Signature]
Whatcom County Senior Prosecuting Attorney
[Signature]
Director of Public Works

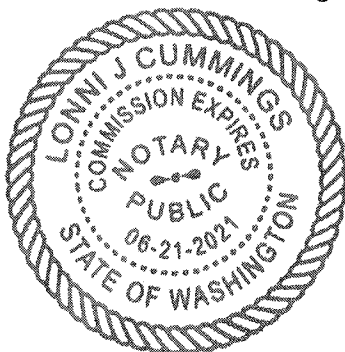
STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

On this _____ day of _____, 2019, before me personally appeared Jack Louws, acting on behalf of the Whatcom County Flood Control Zone District Board of Supervisors, and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

On this 19 day of November, 2019, before me personally appeared Heather Christianson, to me known to be the Chair of the Whatcom Conservation District and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Lonni Cummings
NOTARY PUBLIC in and for the State of
Washington, residing at Bellingham
My commission expires: 6-21-2021

EXHIBIT A- SCOPE OF WORK
Pollution Identification and Correction (PIC) Program
Non-Dairy Agriculture Best Management Practices Outreach and Cost-Share

PROJECT DESCRIPTION

The purpose of this interlocal agreement is to identify the activities that will be conducted by the WCD to provide outreach and financial assistance to landowners/operators with non-dairy agriculture in support of and in coordination with the Whatcom County PIC Program.

Task 1: Community Outreach (\$34,000)

WCD will develop and implement a community outreach program for landowners/operators with non-dairy agricultural operations in Whatcom County PIC focus areas. This will include:

- Developing and implementing educational strategies and frameworks in coordination with WCPW to support the PIC.
- Organizing and hosting non-dairy agriculture workshops/trainings.
- Developing and distributing educational materials (including social media posts), hosting displays and providing presentations at other community events.
- Offering incentives for technical assistance programs such as tarps for covering manure storage or soil tests. Other incentives may be jointly agreed upon by WCD and WCPW.

Deliverables and Timelines:

- Activities will be tracked through progress reports.
 - Monthly reports will be submitted with invoices and include a list of events, materials, and social media posts.
 - Quarterly reports will include the type and location of outreach events, number of participants, and a description of educational materials, social media posts, and programs developed and coordinated.
- Electronic files of advertisements, educational materials, social media screenshots, and workshop evaluations will be provided.

Task 2: Non-Dairy Agricultural Operations Cost-Share (\$21,000)

- WCD and WCPW staff will develop an agreed upon list of eligible cost-share projects. Guidance and application documents created for the 2014 non-dairy agriculture cost-share program have been adapted for this program. WCD and WCPW staff will develop an agreed-upon phased approach for advertising, receiving applications, and selecting priority projects for funding.
- WCD will direct landowners/operators to the most appropriate sources of cost-share funding including funding provided by the County under this agreement, funding provided to the WCD from other sources, and other options through the Whatcom Clean Water program (WCWP).
- WCD staff will assist landowners/operators in completing cost-share applications and provide copies to WCPW for approval of cost-share funding prior to submission to the WCD Director. WCD Director will approve cost-share applications awarded funding by WCPW. No reimbursement will be made where the implementation of BMPs has begun before WCPW and WCD approval. WCD will assist landowners with BMP installation and recordkeeping according to the cost-share program requirements. WCD will receive notification of project completion from landowner/operator and schedule a site visit to verify that BMPs have been installed according to plan specifications. Following the site visit, WCD will approve or deny reimbursement of funds. If reimbursement is denied, the WCD will provide the landowner with information on what is required to improve the BMP to meet specifications needed to sign off as complete and to be approved for reimbursement. The County will reimburse WCD for eligible

cost-share expenses as specified in Exhibit B of this Agreement and landowner/operator cost-share agreement contract.

Deliverables:

- Progress will be tracked through quarterly reports summarizing the location, type of pollution sources identified, and type and number of BMPs installed. These statistics will be summarized on a quarterly basis by PIC focus area.
- Final cost-share report including approved applications, installed BMPs, date and findings of site visit, and cost-share reimbursement (with background invoices) by December 31, 2020. Requests from the WCD to the County for reimbursement for cost-share on qualified projects must be submitted with all necessary documentation no later than December 17, 2020.

**Pollution Identification and Correction (PIC) Program
Non-Dairy Agriculture Best Management Practices Outreach and Cost-Share**

As consideration for the services provided pursuant to the Scope of Work, the total budget is not to exceed **\$55,000** with additional details provided below. Requests for payment and reimbursement by the County will coincide and be based on the successful completion of services described in Exhibit A.

Requests for reimbursement of expenses must be accompanied by copies of paid invoices itemizing costs incurred. The County does not reimburse the cost of alcoholic beverages. Any work performed prior to the effective date of this contract or continuing after the completion date of the same unless otherwise agreed upon in writing, will be at the contractor's expense.

EXHIBIT B- BUDGET

Personnel	Title	Maximum 2020 composite Rate per hour	Total
Bekenyi, Dawn	Administration	\$ 46.93	\$ 23,400.00
Boggs, George	Executive Director	\$ 75.40	
Cassady, Kyle	Research Assistant	\$ 23.88	
Cheever, Corina	Farm Plan Coordinator	\$ 45.21	
Graham, Scarlett	Research Technician	\$ 45.80	
Harris, Meg	Data Coordinator	\$ 48.39	
Hirsch, Emily	Wetlands Specialist	\$ 55.92	
Littlejohn, Jeff	Outreach Assistant	\$ 20.16	
Mednick, Gabriella	Outreach Technician	\$ 27.12	
Pencke, Katie	Farm Planner	\$ 45.20	
Phay, Andrew	GIS Technician	\$ 56.00	
Stranik, Dakota	Farm Planner	\$ 38.28	
Sweeney, Aneka	Outreach Coordinator	\$ 57.49	
Overhead (25% of salaries/benefits)			\$ 5,850.00
Total Personnel			\$ 29,250.00
Supplies/Postage/Rentals	Actual costs		\$ 3,500.00
Training	Actual costs		
Technical Assistance BMPs	Actual costs		\$ 750.00
Mileage	Actual costs		\$ 500.00
Cost-Share (see rates below)* application must be approved by WCPW prior to implementation			\$ 21,000.00
Total Not to Exceed			\$ 55,000.00

Non-Dairy Livestock Cost-Share Reimbursement Description:

Eligible landowners with applications that are approved by the WCD and WCPW will receive the designated percentage cost-share towards a maximum project cost of \$4,000 (maximum \$3,000 reimbursement). Approved BMPs will be reimbursed through the cost-share program utilizing actual costs and the established rate table. Landowners have the option to do labor themselves. The reimbursable rate for owner/operator services are based upon the established rate sheet (below). Whatcom Conservation District will submit invoices to the County which for each project shall include the landowner cost-share approval form, field inspection sign off / maintenance agreement, landowner reimbursement form (including landowner timesheet), and copies of all receipts.

Reimbursement Rates for Producer Labor and Producer Owned Machinery/Equipment

Description	Rate
Individual labor/operator labor	\$22.00/hr
Equipment only, without operator:	
Small tractor, 20Hp-59Hp	\$17.00/hr
Medium Tractor, 60Hp-99Hp	\$28.00/hr
Large Tractor, 100+Hp	\$55.00/hr
Front end loading	\$17.00/hr
Excavator, Light	\$50.00/hr
Excavator, Med	\$88.00/hr
Excavator, heavy	\$132.00/hr
Chain saw	\$11.00/day

Landowners eligible for cost-share assistance through the PIC Non-Dairy Livestock BMP cost-share program can utilize this rate sheet if they choose to do their own labor. Rates will be reimbursed at 75%. Landowner pays 25% of the project costs (labor and materials). An invoice with hours, description of work, and rate must be submitted with cost-share.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-590

File ID:	AB2019-590	Version:	1	Status:	Introduced
File Created:	11/06/2019	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:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending the 2019 Whatcom County Budget, request no. 15, in the amount of \$49,400

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #15 requests funding from the General Fund:

1. To appropriate \$20,000 in Sheriff to fund OCDETF DEA overtime contracts.
2. To appropriate \$29,400 in Sheriff to fund additional reimbursable overtime contracts.
3. To appropriate \$13,391 in Sheriff to fund ballistic vests from grant proceeds.
4. To appropriate \$24,340 in Sheriff to fund M-ATV acquisition from grant proceeds.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/19/2019	Council	INTRODUCED	Council Finance and Administrative Services Committee

PROPOSED BY: Executive
INTRODUCTION DATE: 11/19/19

**ORDINANCE NO.
AMENDMENT NO. 15 OF THE 2019 BUDGET**

WHEREAS, the 2019-2020 budget was adopted November 20, 2018; and,
WHEREAS, changing circumstances require modifications to the approved 2019-2020 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 2019-2020 Whatcom County Budget Ordinance #2018-064 is hereby amended by adding the following additional amounts to the 2019 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Sheriff	49,400	(49,400)	-
Total General Fund	49,400	(49,400)	-
Total Supplemental	49,400	(49,400)	-

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied



Civil Deputy Prosecutor

Jack Louws, County Executive

Date: _____

WHATCOM COUNTY				
Summary of the 2019 Supplemental Budget Ordinance No. 15				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Sheriff	To fund OCDETF DEA RE-19-0039 overtime contract.	5,000	(5,000)	-
Sheriff	To fund OCDETF DEA #RL-19-0001 overtime contract increase.	15,000	(15,000)	-
Sheriff	To fund reimbursable overtime increase.	29,400	(29,400)	-
Sheriff	To fund ballistic vests from grant proceeds.	13,391	(13,391)	-
Sheriff	To fund M-ATV acquisition from grant proceeds.	24,340	(24,340)	-
Total General Fund		49,400	(49,400)	-
Total Supplemental		49,400	(49,400)	-

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 2991

Fund 1

Cost Center 1003519004

Originator: Jacque Korn

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: OCDETF DEA RE-19-0039

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4342.1013	Reimb Drug Enforcement	(\$5,000)
	6140	Overtime	\$5,000
	Request Total		\$0

1a. Description of request:

The U.S. Department of Justice Drug Enforcement Administration (DEA) authorized funding for the Whatcom County Sheriff's Office to participate in the Organized Crime Drug Enforcement Task Forces (OCDETF) and assist with the investigation and prosecution of major drug trafficking organizations. The DEA will reimbursement the Sheriff's Office for overtime of deputies engaged in these investigations.

1b. Primary customers:

Citizens of Whatcom County.

2. Problem to be solved:

Budget authority is needed to use these funds for overtime of deputies to participate in the investigations.

3a. Options / Advantages:

Funds were authorized specifically for overtime on OCDETF investigations; they may not be used for any other purpose.

3b. Cost savings:

Overtime reimbursement of \$5,000.

4a. Outcomes:

Deputies assigned to assist in OCDETF investigations may perform a variety of duties; interviewing witnesses, conducting surveillance, performing undercover assignments, handling informant transportation and/or prisoner transportation, preparing and executing search and arrest warrants, serving subpoenas, assisting with trial preparation, and testifying at trials.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

The U.S. Department of Justice Drug Enforcement Administration State and Local Overtime (SLOT) Funds.

Thursday, October 31, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 2990

Fund 1

Cost Center 1003519002

Originator: Jacque Korn

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: OCDETF 2019 DEA #RL-19-0001 Increase #1

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4342.1013	Reimb Drug Enforcement	(\$15,000)
	6140	Overtime	\$15,000
	Request Total		\$0

1a. Description of request:

In 2019, The Sheriff's Office entered into an Organized Crime Drug Enforcement Task Forces (OCDETF) Agreement for Fiscal Year 2019 to participate in the investigation and prosecution of major drug trafficking organizations. The U.S. Department of Justice (DOJ) agreed to reimburse the Sheriff's Office for overtime of detectives engaged in these federal OCDETF investigations.

The DOJ authorized \$2,500 and Supplemental Budget ID #2711 was approved for the initial allocation. Subsequent increases of \$15,000 were awarded and budget authority is needed for the additional amount.

1b. Primary customers:

Citizens of Whatcom County.

2. Problem to be solved:

Budget authority is needed to use the remaining OCDETF FY2019 funds for overtime in 2019.

3a. Options / Advantages:

Funds were authorized specifically for overtime on OCDETF investigations; they may not be used for any other purpose.

3b. Cost savings:

Overtime reimbursement of \$15,000.

4a. Outcomes:

Sheriff's Office Drug Task Force detectives will continue participation in federal OCDETF investigations.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

The U.S. Department of Justice Drug Enforcement Administration State and Local Overtime (SLOT) Funds.

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 2995

Fund 1

Cost Center 2965

Originator: Jacque Korn

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: Reimbursable Overtime Increase - 2019

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4342.1012	Off Duty Overtime	(\$29,400)
	6110	Regular Salaries & Wages	\$512
	6140	Overtime	\$24,879
	6210	Retirement	\$1,378
	6230	Social Security	\$1,942
	6259	Worker's Comp-Interfund	\$656
	6269	Unemployment-Interfund	\$33
	Request Total		\$0

1a. Description of request:

The Sheriff's Office provides extra law enforcement, traffic control, and security services in accordance with contracts, temporary right-of-way permits, and agreements to hire extra-duty deputies in order to enhance safety and response capabilities. These services are provided by deputies on overtime so as not to impact the daily operations and response capabilities of regularly schedule shift duties.

1b. Primary customers:

Citizens of Whatcom County

2. Problem to be solved:

The current budget is inadequate to cover additional law enforcement services requested in 2019.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

Sheriff's Office deputies provide extra law enforcement, traffic control, and security services as requested.

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:

Expenditures will be offset by revenue generated from organizations requesting services. Overtime billed at \$78.00 per hour in accordance with Whatcom County Unified Fee Schedule.

Thursday, October 31, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Sheriff

Operations

Suppl ID # 2992

Fund 1

Cost Center 1003519006

Originator: Jacque Korn

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: SO Grant COB 2019 JAG - Ballistic Vests

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.1673	Byrne JAG Grant	(\$13,391)
	6320.001	Office & Op Supplies	\$13,391
	Request Total		\$0

1a. Description of request:

The Sheriff's Office received 2019 Byrne Justice Assistance Grant (JAG) Program funds through the City of Bellingham to purchase ballistic vests (W.C. #201908024). The vests are National Institute of Justice certified and meet the current 0.06 level IIIA standards of protection.

The Sheriff's Office is required to provide ballistic protective equipment to uniformed personnel who are subject to occupational hazards that include gunfire/ballistic threats and currently issues ballistic resistant vests and helmets to all deputy sheriffs. The vests need to be replaced as they are outside the recommended manufacturer's warranty.

1b. Primary customers:

Whatcom County Sheriff's Office deputies.

2. Problem to be solved:

Budget authority is needed to use grant funds to purchase ballistic vests in 2019.

3a. Options / Advantages:

The Sheriff's Office will use grant funds rather than local funds to purchase ballistic protective equipment.

3b. Cost savings:

\$13,391

4a. Outcomes:

The Sheriff's Office objective is to utilize allocated funds to purchase and replace current ballistic vests for deputies whose vests are outside the recommended manufacturer's warranty.

4b. Measures:

5a. Other Departments/Agencies:

They City of Bellingham will administer the grant and provide \$13,391 to the Whatcom County Sheriff's Office to purchase ballistic vests per the grant agreement.

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

6. Funding Source:

The funds originate from U.S. Department of Justice Edward Byrne Memorial JAG Program Fiscal Year 2019, CFDA No. 16.738.

Thursday, October 31, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Sheriff

Administration

Suppl ID # 3004 Fund 1 Cost Center 1003518003 Originator: Jacque Korn / Dawn Pierce

Expenditure Type: One-Time Year 1 2019 Add'l FTE ☐ Add'l Space ☐ Priority 1

Name of Request: Acquire FEMA funded M-ATV

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4333.8303	FEMA	(\$20,863)
	4334.0181	FEMA Military	(\$3,477)
	6320	Office & Op Supplies	\$500
	6610	Contractual Services	\$14,715
	6710	Postage/Shipping/Freight	\$9,125
	Request Total		\$0

1a. Description of request:

WCOS is requesting budget authority to replace a light armored vehicle (LAV), damaged beyond repair in last winter's storm event, with a mobile armored transport vehicle (M-ATV). The M-ATV is surplus from the Department of Defense and costs of acquisition and make ready will be funded with FEMA funds.

1b. Primary customers:

Citizens of Whatcom County

2. Problem to be solved:

During the incident period of 12/10/18 through 12/24/18, a Winter Storm created an immediate threat to the health and safety of the general public requiring emergency response and protective measures. The Sheriff's Office provided county-wide security control points and blocked roadways to restrict access to damaged and threat areas for the protection of public health and safety during the winter storm. They also provided search and rescue efforts and evacuation of stranded residents. This disaster was Presidentially declared on March 4, 2019 and The Department of Homeland Security Federal Emergency Management Agency Project 4418-DR-WA project was opened up for Whatcom County.

During the incident period, a light armored vehicle (which had been acquired by the Whatcom County Sheriff's Office from the U.S. Department of Defense through the Law Enforcement Support Office (LESO) 1033 Program) was used to evacuate residents in the beach front area that was being flooded by the king tide and storm surge surf. The entire vehicle was engulfed in waves that damaged the electrical systems and other components of the vehicle. The Sheriff's Office received a FEMA grant to fund costs associated with returning the LAV to the WA State Military Department and acquiring another surplus rescue vehicle.

3a. Options / Advantages:

The replacement vehicle is smaller, lighter and more suited to Sheriff's Office needs

3b. Cost savings:

Acquisition and make-ready are funded through the FEMA grant

4a. Outcomes:

By the end of 2019, we hope to have a fully outfitted replacement vehicle in place to be ready for winter storm and other events where such a vehicle is needed.

4b. Measures:

Wednesday, November 06, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Sheriff

Administration

Suppl ID # 3004

Fund 1

Cost Center

1003518003 Originator: Jacque Korn / Dawn Pierce

A fully operational vehicle will be ready for use.

5a. Other Departments/Agencies:

Some participation from AS-Finance for purchasing.

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

6. Funding Source:

FEMA grant reimbursements



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-592

File ID:	AB2019-592	Version:	1	Status:	Introduced
File Created:	11/07/2019	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:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance establishing the Prox Lock Control Panel Replacement Fund and establishing a project based budget for the Prox Lock Control Panel Replacement Project

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Request establishes the Prox Lock Control Panel Replacement Fund and requests a project based budget to replace access system control panels and related equipment in the amount of \$238,000.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/19/2019	Council	INTRODUCED	Council Finance and Administrative Services Committee

ORDINANCE NO. _____

**ORDINANCE ESTABLISHING THE PROX LOCK CONTROL PANEL REPLACEMENT FUND
AND ESTABLISHING A PROJECT BASED BUDGET FOR THE PROX LOCK CONTROL
PANEL REPLACEMENT PROJECT**

WHEREAS, the County has access controls (prox locks) on several buildings, and

WHEREAS, most of the current prox lock control panels in place are several generations old and no longer supported, and

WHEREAS, the County needs to replace these panels and it is estimated that the duration of the project will take multiple years to implement and execute, and

WHEREAS, funding is available from Real Estate Excise Tax I Fund, and

WHEREAS, Section 6.80 of the Whatcom County Home Rule Charter allows for project-based capital budget appropriation ordinances that lapse when the project has been completed or abandoned or when no expenditure or encumbrance has been made for three (3) years,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new fund is hereby established effective December 3, 2019 titled Prox Lock Control Panel Replacement Fund. This fund shall be used to account for the revenues and expenditures related to replacing access system control panels and related equipment, and

BE IT FURTHER ORDAINED by the Whatcom County Council that the Prox Lock Control Panel Replacement Fund is approved as described in Exhibit A with a project budget of \$238,000.

ADOPTED this ____ day of _____, 2019.

ATTEST:

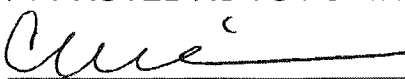
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of the Council

APPROVED AS TO FORM:

() Approved () Denied



Civil Deputy Prosecutor

Jack Louws, County Executive
Date: _____

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 2993

Fund

Cost Center

Originator: Rob Ney

Year 1 2019

Add'l FTE ☐

Priority 1

Name of Request: Prox Lock Control Panel Replacement Project

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	7060	Repairs & Maintenance	\$238,000
	8301	Operating Transfer In	(\$238,000)
	Request Total		\$0

1a. Description of request:

The Council approved ASR #2019-5865 in the 2019-20 Biennium Budget (see attached). The ASR was a "one-time" expenditure to replace the County's inventory of proximity panels that are part of our access control system. With all the major projects currently on Facilities' plate, there is not sufficient time to begin this major undertaking. Further, it is estimated that the duration of this project will take multiple years to implement and execute. Staff is requesting the "one time" money be converted into a Project Based Budget so facilities can implement as time allows.

1b. Primary customers:

Departments and Staff who reside in buildings with access controls. It is a desire of Facilities to have all buildings controlled by our access control system and is working to achieve this goal in a methodical manner.

2. Problem to be solved:

Converting the "one-time" money to a project based budget will allow Facilities to undertake this major project over multiple years.

Many/most of the AMAG control panels are several generations old and are no longer supported. This effort would replace these aging, non-supported units with a current supported system.

3a. Options / Advantages:

There are not many options available to keep this system working. Parts are no longer available for these older systems. Replacing with new components is the only viable options.

This will allow Facilities to continue to manage an access control system in locations where the non-supported panels exist.

3b. Cost savings:

There are no real cost saving options.

4a. Outcomes:

Once work has been completed, the buildings will be secure and the software/hardware will be supported to limit interruptions in security for the buildings.

4b. Measures:

Upon completion of the installation of the new components.
Continued building security.

5a. Other Departments/Agencies:

This project will impact only those departments where these panels will be replaced. However, Facilities will do everything it can to limit any service interruptions for our tenants.

Thursday, October 31, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Administrative Services

Facilities Management

Suppl ID # 2993

Fund

Cost Center

Originator: Rob Ney

Nearly all buildings with access controls.

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

Rob Ney

6. Funding Source:

REET I

2019-2020 Budget Preparation - Regular Additional Service Request

Administrative Services

Facilities Management

ASR # 2019- 5665

Fund 326

Cost Cente

Originator: Rob Ney

Expenditure Type: One-Time

Add'l FTE ☐

Add'l Space ☐

Priority 11

Name of Request: Prox Lock Control Panel Replacement Project

Costs:	Object	Object Description	2019 Requested	2019 Approved	2020 Requested	2020 Approved
	7060	Repairs & Maintenance	\$238,000	\$238,000	\$0	\$0
	Totals		\$238,000	\$238,000	\$0	\$0

1. Description of Request:

a) Describe the proposed activity or service, and indicate whether it is a higher or lower priority than existing services in your department budget.

The County has access controls (Prox locks) on several buildings. The current system in place is the AMAG system. Our Vendor has informed us that they no longer supply parts for our AMAG access control panel system. The County has had a built up inventory of spare parts that has been depleted over the years, most recently with the water damage at Civic Center Building. This request would be to replace the aging system with new panels and the newer firmware.

b) Who are the primary customers for this service?

Departments and Staff who reside in buildings with access controls. It is a desire of Facilities to have all buildings controlled by our access control system and is working to achieve this goal in a methodical manner.

2. Describe the problem this request addresses and why Whatcom County needs to address it.

Many/most of the AMAG control panels are several generations old and are no longer supported. This effort would replace these aging, non-supported units with a current supported system.

3. Options

a) What other options have you considered? Why is this the best option?

There are not many options available to keep this system working. Parts are no longer available for these older systems. Replacing with new components is the only viable options. This will allow Facilities to continue to manage an access control system in locations where the non-supported panels exist.

b) What are the specific cost savings? (Quantify)

There are no real cost saving options.

4. Outcomes / Objectives

a) What outcomes will be delivered and when?

Once work has been completed, the buildings will be secure and the software/hardware will be supported to limit interruptions in security for the buildings.

b) How will you know whether the outcomes happened?

Upon completion of the installation of the new components.
Continued building security.

5. Other Departments/Agencies

a) Will this ASR impact other departments or agencies? If so, please identify the departments and/or agencies impacted and explain what the impact(s) will be.

This project will impact only those departments where these panels will be replaced. However, Facilities will do everything it can to limit any service interruptions for our tenants.
Nearly all buildings with access controls.

b) If another department or agency is responsible for part of the implementation, name the person in charge of implementation and what they are responsible for.

Rob Ney

Tuesday, September 25, 2018

Rpt: ASR - BY DEPT Req and App

2019-2020 Budget Preparation - Regular Additional Service Request

Administrative Services

Facilities Management

ASR # 2019- 5865

Fund 326

Cost Cente

Originator: Rob Ney

6. What is the funding source for this request?

REET I

Tuesday, September 25, 2018

Rpt: ASR - BY DEPT Req and App



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-619

File ID:	AB2019-619	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	LReid@co.whatcom.wa.us		
Department:	Sheriff's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into an Interlocal Agreement between Whatcom County and Kittitas County for the Housing of Inmates

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**WHATCOM COUNTY
SHERIFF'S OFFICE**

BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

TO: Jack Louws, County Executive
FROM: Bill Elfo, Sheriff
RE: Interlocal Agreement for Inmate Housing with Kittitas County
DATE: November 11, 2019

Enclosed are two (2) originals of an Agreement between Whatcom County and Kittitas County for your review and signature.

▪ **Background and Purpose**

This Agreement replaces the one (originally approved by council in 2017) with Yakima County. Yakima County has decided not to renew our Agreement and has given notice that they will discontinue housing Whatcom County inmates at the end of December 2019.

Kittitas County has agreed to contract with us for the same purpose of providing adequate and safe housing for offenders committed by the courts to jail.

Whatcom County is planning major capital projects intended to mitigate serious structural, security and life-safety systems deficiencies in the downtown jail. Engineering findings report that these repairs are necessary to keep the facility functional for the next five years. The County Facilities department will be overseeing the work. While a work schedule and plan have not yet been finalized, it is anticipated that it will be necessary to close portions of offender housing to facilitate the work. Consequently, it is anticipated that there will be a significant reduction in available jail bed capacity at the downtown jail. This Agreement will also facilitate housing inmates during unanticipated spikes in the jail population or the failure of existing infrastructure and life-safety systems.

▪ **Funding Amount and Source**

This is a fee for service Agreement and the expenditures will vary from year to year, depending on the schedule and work plan for mitigating deficiencies, failures of existing life-safety systems and population spikes. A supplemental budget request was developed and approved and funding comes from a source approved by the Executive's Office.

▪ **Differences from Previous Contract**

Yakima charged \$63.65 per day and Kittitas will charge \$66.50 per day.

Please contact Laurie Reid at extension 6506, if you have any questions or concerns regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	Corrections/In Custody
Contract or Grant Administrator:	Laurie Reid
Contractor's / Agency Name:	Kittitas County Corrections Center
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> 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: 118000	
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"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract work is for less than 120 days. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <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.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 300,000.00 per year This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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: Kittitas County Corrections Center will provide housing, care and custody to Whatcom County offenders when housing space at the Whatcom County jail is restricted due to significant infrastructure renovations, maintenance or repairs that necessitates closing housing units, sustained high offender population and/or emergencies that result in a need for offender housing off-site. This is a fee for service contract.	
Term of Contract: 2 years	Expiration Date: 12/31/2021

Contract Routing:	1. Prepared by: LR	Date: 11/12/19
	2. Attorney signoff: <i>LR</i>	Date: 11/20/19
	3. AS Finance reviewed: <i>Adenard</i>	Date: 11/14/19
	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 AGREEMENT BETWEEN
WHATCOM COUNTY, WASHINGTON
AND KITTITAS COUNTY, WASHINGTON,
FOR THE HOUSING OF INMATES FOR 2020-2021**

THIS INTERLOCAL AGREEMENT is made and entered into on this __ day of _____, 2019 by and between Kittitas County, Washington, a Washington municipal corporation, hereinafter referred to as "Kittitas County", "The County" or "KCCC" on behalf of Kittitas County Corrections Center, and Whatcom County, Washington, also a Washington Municipal Corporation, hereinafter referred to as "Whatcom County", each party having been duly organized and now existing under the laws of the State of Washington. Both entities may be referred to in this Agreement collectively as "Parties" or individually as "Party".

WITNESSETH:

WHEREAS, Kittitas County owns and operates the Kittitas County Corrections Center (KCCC), located in Ellensburg, Washington; and

WHEREAS, Whatcom County, whose law enforcement officers arrest persons for misdemeanors, gross misdemeanors or felonies, which may result in jailing of the person arrested; and

WHEREAS, Whatcom County seeks to contract for jail facilities and services from KCCC for confinement of Whatcom County prisoners; and

WHEREAS, KCCC has expressed a willingness to provide jail facilities and services to Whatcom County; and

WHEREAS, the Interlocal Cooperation Act (Chapter 39.34 RCW) and the "City and County Jails Act" (Chapter 70.48 RCW), authorizes contracts for jail services made between two counties; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this Interlocal Agreement (ILA) for the Housing of Inmates by action taken at a regular meeting; and

NOW, THEREFORE, in consideration of the above and foregoing recitals, the payments to be made, the mutual promises and covenants herein contained, and for other good and valuable consideration, the parties hereto agree as follows:

I. Governing Law

The parties hereto agree that, except where expressly otherwise provided, the laws and administrative rules and regulations of the State of Washington shall govern in any matter relating to an inmate(s) confined pursuant to this Agreement.

II. Term

This agreement shall be effective January 1, 2020 and shall extend for a period of two years until midnight, December 31, 2021, subject to earlier termination as provided herein.

III. Notice

All notices, reports, and correspondence to the respective parties of this Agreement shall be sent to the following:

To Whatcom County: Whatcom County Sheriff's Office
311 Grand Ave.
Bellingham WA, 98225

Primary Contact: Wendy Jones, Chief Corrections Deputy
Secondary Contact: Lt. Ernie Stach
Phone: 360-778-6500

To the County of Kittitas: Kittitas County Corrections Center
205 W 5th Ave, Ste 1
Ellensburg WA 98926

Primary Contact: Commander Steve Panattoni
Secondary Contact: Lt. Edward Buntin
Phone: 509-962-7527

IV. Definitions

The Parties hereby agree that the following terms shall have the specified meanings unless indicated otherwise herein:

- A. Day. A twenty-four hour-long unit of time commencing at 00:00:01 a.m., and ending at 23:59:59 p.m.
- B. Inmate Classifications. Shall be pursuant to the Kittitas County Corrections Center Objective Jail Inmate Classification which is modeled after the National Institute of

Corrections Jail Classification.

- i) "Minimum" classification shall apply to those inmates who present a low risk to staff and the community.
 - ii) "Medium" classification shall apply to those inmates who present a moderate risk to staff and the community.
 - iii) "Maximum" classification shall apply to those inmates who present a substantial risk to staff and the community.
- C. Whatcom Prisoner (or may also be referred to as offender in this Agreement) means a person arrested by a Law Enforcement Officer of Whatcom County or another law enforcement agency located within Whatcom County, either on behalf of Whatcom County or on behalf of municipalities within Whatcom County and booked into the Kittitas County Corrections Center (KCCC) at any time and for any reason, including after sentencing. It is anticipated that prisoners confined at KCCC will be those sentenced to terms of incarceration in jail for periods of three hundred sixty-five days (365) or less, but may also be, as deemed appropriate, be prisoners not yet convicted under the same terms and conditions as those serving sentences. Transportation of all prisoners confined at KCCC pursuant to this ILA shall be the responsibility of Whatcom County, including all costs.
- D. Access of legal counsel to such prisoners shall be pursuant to the policies and schedule of KCCC, and no cost of such counsel shall be the responsibility of the KCCC. Kittitas County is in the process of implementing video conferencing for court proceedings and attorney access, and upon implementation thereof, Whatcom County will be allowed to make use of this technology and process at its own expense.
- E. Any bond to be posted for Whatcom Prisoners shall be posted in accordance with the orders of the court setting the pre-trial conditions, and all such prisoners shall be transported to Whatcom County by and at the expense of Whatcom County, except that KCCC and Whatcom County may come to agreement for alternative transport options, paid for by Whatcom County, including but not limited to the purchase of a bus ticket from Ellensburg to Bellingham, the cost of which would be reimbursed to KCCC.

V. Criteria for Determining Prisoner Status

For the purposes of this agreement:

- A. Whatcom Prisoners being booked into the Kittitas County Corrections Center shall remain the responsibility of the Whatcom County Transport Deputies and shall not be deemed an inmate of that facility until the Whatcom County Prisoner is accepted by

KCCC Corrections staff at the time of booking. Only Transport Deputies authorized by Whatcom County may present a prisoner for confinement in KCCC pursuant to this ILA unless previously arranged and approved in writing by the Jail Commander or his/her designee or superior. Any prisoner transported by Whatcom County to the KCCC with documentation showing that the prisoner is being held pursuant to an order entered by any court in Whatcom County will be presumed to be acceptable for confinement except as otherwise provided herein.

- B. If a Whatcom County Offender behaves in such a manner that disciplinary action is needed to correct the behavior, the Whatcom County offender will be subjected to the same disciplinary process utilized by the County for the KCCC offenders. If a sanction applied results in loss of good time, KCCC will notify the Whatcom County contact. If the offender behavior is to the level that KCCC determines they are no longer appropriate for KCCC, notice will be made to Whatcom County and the offender removed from KCCC via either the regularly scheduled transport or as can be reasonably arranged by Whatcom County through special transport.

VI. Jail and Medical Services

- A. Inmates deemed Whatcom Prisoners for medical purposes shall mean any person incarcerated pursuant to this ILA. These prisoners shall receive such medical, psychiatric and dental treatment when emergent and necessary to safeguard their health while housed in the Kittitas County Corrections Center in the same manner and to the same extent as any other prisoner. KCCC will provide or arrange for providing of such medical, psychiatric and dental services. Except for routine minor medical services provided by the County within the Kittitas County Corrections Center, Whatcom County shall ultimately be responsible and pay directly or reimburse the KCCC for any and all costs associated with the delivery of any emergency or necessary medical service provided to Whatcom Prisoners. Whatcom County shall be responsible for any and all emergent or necessary medical, dental and psychiatric treatment provided outside of the Kittitas County Corrections Center and shall be billed thereafter.
- B. If the County becomes aware that a Whatcom Prisoner is in need of medical health care requiring the assistance of a medical health care services provider outside of the Kittitas County Corrections Center, then the County shall make reasonable effort to notify Whatcom County prior to obtaining said service. In the case of emergency, the County may notify Whatcom County after the service has been provided. Due to the realities of transporting prisoners between Whatcom County and the KCCC, it is anticipated that other than routine medical appointments scheduled in advance, KCCC shall perform such transport and other obligations needed to address the health needs of Whatcom Prisoners in the same manner as any other inmate of KCCC. Whatcom County shall be responsible for the cost of all transport and other arrangements. To the extent possible, the parties agree that Whatcom County will not seek to place its prisoners in KCCC if significant medical care is reasonably

anticipated.

- C. An adequate record of all such services shall be kept by the County for Whatcom County's review at its request, to the extent consistent with confidentiality regulations. Any medical or dental services of major consequence shall be reported to Whatcom County as soon as time permits. If the offender is transferred back to Whatcom County, a discharge summary containing information concerning health care provided at KCCC shall accompany the offender via the Transport team.
- D. Should medical, psychiatric or dental services require hospitalization, Whatcom County agrees to compensate KCCC dollar for dollar any amount expended or cost incurred in providing the same.
- E. Upon payment to KCCC by Whatcom County for a Whatcom Prisoner's health care expense, the County will assign to Whatcom County, if requested by Whatcom County, any and all right to reimbursement for medical expenses authorized under RCW 70.48.130.
- F. Whatcom County agrees to pay directly or reimburse the County for any and all medical expenses, as defined in Section VI.A, incurred for Whatcom Prisoners which are not performed by medical staff on contract with the County within the Kittitas County Corrections Center, or paid by the Department of Social and Health Services, including medical, psychiatric, and dental bills as well as prescription medication expenses.

VII. Transportation

Kittitas County shall be responsible for the transportation of all prisoners from the Corrections Center to local medical services and back. Whatcom County shall pay the actual costs for Kittitas County personnel required to appropriately and safely transport and maintain custody of prisoners during medical treatment, including overtime as needed to maintain staffing for operations. Kittitas County will contact Whatcom County with regard to any pre-planned major medical treatment to allow Whatcom County to consider the option of using its own personnel for transport and security, including provision of female personnel for medical matters specific to women.

Whatcom County shall be responsible for transporting all inmates to and from custody between Whatcom County and KCCC. KCCC shall provide Whatcom County adequate and sufficient notice of a Whatcom County offender release date from KCCC so that Whatcom County can arrange transport on the scheduled transport back to Whatcom County, to prevent an inmate from being held beyond their release date. All inmates shall be picked up and transported to Whatcom county not less than 24 hours from discharge, with the exceptions noted under Section IV (E) for offenders released once bond had been posted. Whatcom County shall provide all documentation related to the booking of inmates, including court orders and the date and time at which custody commenced and is to end.

VIII. Compensation

- A. Kittitas County agrees to accept and house Whatcom Prisoners for compensation per prisoner at the rate of \$66.50 per day for the year 2020 and \$66.50 per day for the year 2021 (also see Section VI herein) except as provided below. This rate includes minimum, medium and maximum classification inmates. The parties agree that the County will not charge Whatcom County a separate booking fee in addition to such rate.
- B. The rate of compensation for any inmate requiring additional or specialized conditions of incarceration to the extent that they must be placed alone in a single cell designed for double occupancy shall be \$133.00 per day. KCCC will promptly notify Whatcom County if an offender is placed alone in such a cell, unless that housing is incidental to moving the offender or for short term disciplinary separation.
- C. The date of booking into, and the date of release from, the Kittitas County Corrections Center of the Whatcom Prisoners, no matter how little time of a twenty-four hour day it constitutes, shall count as one day for billing purposes and shall be billed to Whatcom County as a day of custody in Kittitas County.

IX. Billing and Billing Dispute Resolution Procedures

- A. The County shall transmit billings to the designated contact for Whatcom County on the following dates: April 15th, July 15th, October 15th, and January 15th. Within forty-five (45) days after receipt, Whatcom County shall pay the full amount billed or withhold any portion thereof related to disputed medical costs and provide the County written notice specifying the amount withheld and the grounds for withholding such amount, together with payment of the remainder of the amount billed.
- B. The designated person for billing is:
Laurie Reid, Jail Administrative Coordinator
Whatcom County Sheriff's Office
Public Safety Building
311 Grand Ave.
Bellingham, WA 98225
Phone: 360-778-6506
LReid@co.whatcom.wa.us
- C. Interest on unpaid balances not paid within 45 days of billing shall be computed at 1% of the unpaid balance per month, provided that an exception may be made by KCCC in the event of an unforeseen event beyond the control of the parties. In this event, Whatcom County will notify KCCC as soon as it possible of the situation.

- D. Withholding of any amount billed shall constitute a dispute to be resolved as follows:
- i) The Sheriffs and Prosecuting Attorneys of Kittitas and Whatcom Counties or their designees shall attempt to resolve the dispute by negotiation. Negotiation meetings may be conducted once per quarter, meeting in the months of January, April, July, and October if requested. If negotiations are unsuccessful, the dispute shall be referred to the Chairs of the Kittitas and Whatcom County legislative bodies for settlement. If not resolved by them within thirty (30) days of referral, the Whatcom County Executive and Chair of the Board of County Commissioners may, by mutual written consent, apply to the Kittitas County Superior Court for appointment of an arbitrator whose decision shall be final and binding on both parties. Each party shall pay their own costs, expenses and fees for arbitration or litigation. If mutual written consent to apply for the appointment of an arbitrator is not reached, either party may seek court action to decide the disputed contract provision.
 - ii) Any amount withheld from a billing, plus interest thereon as set forth in Sec IX (B) determined owed to Kittitas County pursuant to the billing dispute resolution procedure described above shall be paid by Whatcom County within thirty (30) days of the negotiated resolution, arbitrator's decision or court finding.
- E. Each party may examine the other's books and records to verify charges. If an examination reveals an improper charge, the amount shall be applied to the next quarter and subsequent quarter's payments until the credit has been exhausted. Any unused credit, which exists at the termination of this agreement, shall be refunded within thirty (30) days of the date of termination.
- F. Billing Statements. The County shall provide a billing statement each quarter in accordance with section IX (A).
- G. Unpaid balances over 60 days in arrears may result in cancellation of access to the Corrections Center for booking of Whatcom prisoners.
- H. Upon cancellation or expiration of this agreement, all Whatcom Prisoners shall be taken into Whatcom County's custody on or before the effective date.

X. Termination

- A. Termination for Material Breach. In the event either party believes the other party has materially breached any obligations under this agreement, such party shall so notify the breaching party in writing, stating the basis upon which breach is claimed and the specific provisions of this agreement claimed to have been violated. The breaching party shall have thirty (30) days from the receipt of such notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If

the breach is not cured within the thirty (30) days, the non-breaching party shall have the right to terminate this agreement by providing ninety (90) days prior written notice to the other party and to Washington State Office of Financial Management, as provided in RCW 70.48.090. The ninety-day notice shall state the grounds for termination and the specific plan for accommodating the affected jail population.

- B. Termination by Mutual Agreement. This Agreement may be terminated by written notice from either party to the other party and to Washington State Office of Financial Management, as provided in RCW 70.48.090, stating the grounds for said termination and specifying plans for accommodating the affected inmates. The notice must be delivered by regular mail to the contact persons identified in Section IV herein. Termination shall become effective ninety (90) working days after receipt of such notice.
- C. Removal of Inmates Following Notice of Termination. Within the ninety (90) day notice period set forth in subsection A or B above, or within such other period of time as may be agreed upon in writing by the parties, Whatcom County agrees to remove its inmate(s) from Kittitas County Corrections Center. In the event of termination of this agreement, Whatcom County shall compensate the County for prisoners housed by KCCC after notice of such termination until Whatcom County retakes its inmates in the same manner and at the same rates as if this agreement had not been terminated.

XI. Responsibility for Offender's Custody

It shall be the responsibility of the County to confine the inmate or inmates; to provide treatment, including the furnishing of subsistence and all necessary medical and hospital services and supplies; to provide for the prisoners' physical needs; to make available to them programs and/or treatment consistent with the individual needs; to retain them in said custody; to supervise them; to maintain proper discipline and control; to make certain that they receive no special privileges and that the sentence and orders of the committing court in the State are faithfully executed; provided that nothing herein contained shall be construed to require the County, or any of its agents, to provide service, treatment, facilities or programs for any inmates confined pursuant to this Agreement, which it does not provide for similar inmates not confined pursuant to this Agreement. Nothing herein shall be construed as to require the County to provide services, treatment, facilities or programs to Whatcom Prisoners above, beyond or in addition to that which is required by applicable law.

XII. Right of Refusal

The County shall have the right to refuse to accept any prisoner from Whatcom County who, in the judgment of the County, has a current health condition which may adversely affect the safety of the individual or the safe operations of the Kittitas

County Corrections Center or will cause the reasonable operational capacity limits of KCCC to be reached or exceeded.

KCCC does not have the capability to house and care for inmates with serious medical or mental health diagnoses. Such inmates are not eligible to be incarcerated in KCCC. To ensure that such inmates are not presented to KCCC, all relevant records or other information of whatever nature in the possession of or known to Whatcom County shall be provided to KCCC in advance. That information may be exchanged via phone call. KCCC shall secure such records in a manner consistent with applicable State and Federal law and destroy them promptly upon the decision to not accept such an inmate.

XIII. Indemnification

- A. Kittitas County shall defend, indemnify, and hold harmless Whatcom County, its agents, employees and officers from any and all liability arising out of the performance of this agreement, whether by act or omission of Kittitas County, its agents, employees or officers. Such liability shall include but not be limited to, intentional acts, negligence, and violations of prisoner's constitutional rights.
- B. Whatcom County shall defend, indemnify and hold harmless Kittitas County, its agents, employees and officers from any and all liability arising out of the performance of this agreement, whether by act or omission of Whatcom County, its agents, employees, or officers. Such liability shall include, but is not limited to, false arrest and false imprisonment.
- C. The Parties' obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or negligence of the other Party, its agents, officers, employees or sub-consultants.
- D. The Parties' obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the Parties or of the Parties and a third party other than an officer, agent or employee of the Parties, shall apply only to the extent of the negligence or willful misconduct of each Party.
- E. The parties agree to cooperate in defense of any and all claims made, of whatever nature, to the extent possible.

XIV. Entire Contract

This agreement represents the entire understanding of the parties and supersedes any

oral representations that are inconsistent with or modify its terms and conditions.

XV. Modification

This agreement may be modified and amended only in writing and signed by the parties hereto.

XVI. Independent Contractor

In providing services under this Interlocal Agreement, Kittitas County is an independent contractor and neither it nor its officers, agents or employees are employees of Whatcom County for any purpose, including but not limited to, responsibility for any federal or state tax, industrial insurance or Social Security liability. Neither shall the provision of services under this Interlocal Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of Whatcom County under any applicable law, rule or regulation.

XVII. General Provisions:

- A. Purpose. The purpose of this Interlocal Agreement is to permit the joint use of the Kittitas County Corrections Center for confinement of prisoners of the parties to the Interlocal Agreement, thereby promoting maximum use and efficiency of the Kittitas County Corrections Center.
- B. Administrator. Pursuant to RCW 39.34.030(4)(a), the administrator for this agreement shall be the Undersheriff of the Kittitas County Sheriff's Office.
- C. Property. Unless otherwise specifically agreed by the parties in writing, all property, personal and real, utilized by the parties hereto in the execution of this Agreement shall remain the property of that party initially owning it.
- D. Venue. Venue for any lawsuit shall be determined pursuant to RCW 36.01.050.
- E. Filing. This Agreement shall be filed with the Kittitas County Auditor's Office or, alternatively, listed by subject on each or either party's web site or other electronically retrievable public source pursuant to RCW 39.34.040.
- F. Severability. In the event any provisions of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provisions shall be enforced and valid to the extent permitted by law. All provisions of this Agreement are severable and the unenforceability or invalidity of a single provision herein shall not affect the remaining provisions.

- G. Waiver of Breach. The waiver by either party of the breach of any provision of this Agreement by the other party must be in writing and shall not operate nor be construed as a waiver of any subsequent breach by such other party.
- H. Savings Clause. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions of this Agreement and any statute, law, public regulation or ordinance, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be curtailed and limited only the extent necessary to bring it within legal requirements.
- I. Interpretation. This Agreement has been submitted to the scrutiny of all parties and their counsel, if desired, and it shall be given a fair and reasonable interpretation in accordance with its words, without consideration or weight given to its being drafted by any party or its counsel. All words used in the singular shall include the plural; the present tense shall include the future tense; and the masculine gender shall include the feminine and neuter gender.
- J. Access to Records. The parties hereby agree that authorized representatives of the parties shall have access to any books, documents, paper and record of the other party which are pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. All such records and all other records pertinent to this Agreement and work undertaken pursuant to this Agreement shall be retained by the parties for a period of six years after the final expiration date of this Agreement or any amendments hereto, unless a longer period is required to resolve audit, findings or litigation. In such cases, the parties may expressly agree by an amendment or separate agreement for such longer period for record retention.

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**COUNTY OF KITTITAS
BOARD OF COUNTY COMMISSIONERS**

Chairman

Vice-Chairman

Commissioner

**COUNTY OF KITTITAS
SHERIFF'S OFFICE**

Clayton Myers, Sheriff

ATTEST:

APPROVED AS TO FORM:

☐ Clerk of the Board- Julie Kjorsvik

☐ Deputy Clerk of the Board- Mandy Buchholz

Douglas R. Mitchell, 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: AB2019-622

File ID:	AB2019-622	Version:	1	Status:	Agenda Ready
File Created:	11/21/2019	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Interlocal		
Assigned to:	Council Finance and Administrative Services Committee			Final Action:	
Agenda Date:	12/03/2019	Enactment #:			

Primary Contact Email: tschroed@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 Cities of Bellingham, Blaine, Everson, Ferndale, Lynden and Sumas for the purpose of implementing a countywide wayfinding and gateway feature placement program

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached


HISTORY OF LEGISLATIVE FILE


Date:	Acting Body:	Action:	Sent To:
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MEMORANDUM

TO: Whatcom County Council

FROM: Tawni Helms, Administrative Coordinator 

THROUGH: Tyler Schroeder, Deputy Executive 

RE: Countywide Wayfinding Project

DATE: November 13, 2019

Background: in 2015, Roger Brooks International was hired to assess Bellingham and Whatcom County's tourism assets, activities, supporting amenities, as well as the destination's marketing efforts. This multi-day process culminated in a photographic "Findings & Suggestions" workshop and a written report. In this report, countywide wayfinding was identified as **the** top priority for Whatcom County. By way of definition, wayfinding includes signage at gateways and entries into the communities; attractions and activities; amenities including parking, restrooms and visitor information centers; trail markers and access points; visitor information kiosks; pedestrian wayfinding specifically in downtowns.

In 2017, Bellingham Whatcom County Tourism (BWCT) worked with the City of Bellingham and Whatcom County, who invested \$50,000 each to hire wayfinding experts to develop a countywide wayfinding plan. BWCT conducted a search for qualified wayfinding experts and, in the summer of 2017, MERJE was hired to develop a plan because they follow a holistic design approach that merges graphic design with the built environment, helping destinations like ours enhance our brand and achieve our mission. MERJE has planned and designed more than 75 community wayfinding programs for regions, cities, and towns of all sizes.

MERJE engaged stakeholders and facilitated the Wayfinding Steering Committee to develop a schematic design and preliminary sign design. The proposed signage was presented to stakeholders and the general public and is now moving through the Department of Transportation for review.

In 2019, the County and the participating cities worked together to prepare an interlocal agreement to plan and prepare for the program implementation. The purpose of this Agreement is to establish a coordinated Regional Wayfinding and Gateway Program, which is designed to establish a consistent identity throughout the region and provide visitors a seamless journey and experience, which will

benefit each community. This agreement includes program implementation, budgeting, cost sharing and program maintenance plan.

Phase 1 of the project, the implementation process, includes the hiring of a Program Management Firm or Program Manager to work with Merge and oversee the development of the bid-ready construction documents and the development of a Management and Maintenance Plan.

Phase 2 of the project will be accomplished through the finalization of the Cost Sharing Plan and will include the Program Management, Design and Installation of the project elements.

The final phase of the project will be the development of a long-term maintenance, replacement and decommissioning plan between all parties of the agreement.

Benefits to Whatcom County: Through a coordinated wayfinding program, we can drive visitors from heavily visited areas (think Fairhaven) to other attractions and less frequented cities, towns, and attractions in Whatcom County. Enhanced awareness (think gateway signs indicating you are in Whatcom County) can enhance awareness of the county that could potentially increase not only tourism, but business relocation and economic development.

Funding Amount and Source: Funding in the amount of \$2,674,700 is to be shared between the parties as outline in this agreement. Whatcom County's initial portion in the amount of \$565,775 from the Lodging Tax Fund was approved by Council at the November 6th council meeting. The City of Bellingham has approved using their Lodging Tax dollars to fund their portion of over \$500,00.

Future funding request of approximately \$940,000 will be proposed to the Economic Development Investment Board and County Council to further support the project.

Please contact Tyler Schroeder at extension 5207, if you have any questions or concerns regarding the terms of this agreement.

Encl.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Executive Office								
Division/Program: (i.e. Dept. Division and Program)	Non-Departmental								
Contract or Grant Administrator:	Tyler Schroeder, Deputy Executive								
Contractor's / Agency Name:	City of Bellingham and Small Cities								
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input checked="" type="radio"/> No <input type="radio"/> 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? Contract _____ Cost Center: TBD Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____									
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: <table border="0"> <tr> <td><input type="checkbox"/> Professional services agreement for certified/licensed professional.</td> <td><input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than \$100,000.</td> <td><input type="checkbox"/> Work related subcontract less than \$25,000.</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than 120 days.</td> <td><input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</td> </tr> <tr> <td><input checked="" type="checkbox"/> Interlocal Agreement (between Governments).</td> <td></td> </tr> </table>		<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.	<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	<input checked="" type="checkbox"/> Interlocal Agreement (between Governments).	
<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).								
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.								
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.								
<input checked="" type="checkbox"/> Interlocal Agreement (between Governments).									
Contract Amount:(sum of original contract amount and any prior amendments): \$ 2,753,625 - (shared cost between parties)	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:								
This Amendment Amount: \$ _____	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.								
Total Amended Amount: \$ _____									
Summary of Scope:									
This agreement is entered into between Whatcom County and the Cities of Bellingham, Blaine, Ferndale, Lynden, Everson and Sumas for the purpose of implementing a countywide regional wayfinding and gateway feature placement program.									
Term of Contract: Inception begins date all parties have signed Expiration Date: 5 years w/two 5 year renewal options									

Contract Routing:	1. Prepared by: <u>TS/TWL</u>	Date: <u>11/13/19</u>
	2. Attorney signoff: <u>KNF</u>	Date: <u>11/21/19</u>
	3. AS Finance reviewed: <u>SBennett</u>	Date: <u>11/21/19</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 Cooperation Agreement
Between Whatcom County and the Cities of Whatcom County
For the Purpose of Implementing a Countywide Regional Wayfinding and Gateway Program**

This agreement is entered into between Whatcom County ("County") and the Cities of Bellingham, Blaine, Ferndale, Lynden, Everson, and Sumas ("Cities") for the purpose of implementing a countywide wayfinding and gateway feature placement program. This Agreement addresses cost sharing and the two phases of implementation of a Countywide Regional Wayfinding and Gateway Program.

WHEREAS, in 2015 Bellingham Whatcom County Tourism used County and City Lodging Tax Funds to contract with Roger Brooks International to perform an Opportunity Assessment of our region; and

WHEREAS, the Roger Brooks Assessment was presented to the County and Cities (together "Parties") and provided a detailed study that identified several challenges and deficiencies in the County's existing wayfinding system as well as several opportunities that could be capitalized for the greater benefit of the region; and

WHEREAS, in 2017 Bellingham Whatcom County Tourism contracted with a project management firm, MERJE, to identify methods for developing a countywide wayfinding program; and

WHEREAS, Bellingham Whatcom County Tourism worked with MERJE to solicit participation from each of the Cities and the County in developing a comprehensive program that includes sign design, sign placement, and sign content identifying primary and secondary travel routes in the region; and

WHEREAS, the Parties wish to support the project through the implementation phase; and

WHEREAS, the County and the Cities have all agreed to fund the project through their available funds as described in Exhibit B, Cost Sharing Plan, subject to council approval of future budget actions;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

ARTICLE 1. PURPOSE AND SCOPE

The purpose of this Agreement is to establish a coordinated Regional Wayfinding and Gateway Program ("Program"), which is designed to establish a consistent identity throughout the region and provide visitors a seamless journey and experience, which will benefit each community, including Program implementation, budgeting, cost sharing and Program maintenance plan, as outlined herein. The Parties intend that any future task orders entered for said Program be accomplished under the umbrella of and in accordance with this Agreement.

ARTICLE 2. ADMINISTRATION

This Agreement shall be administered by Whatcom County, by and through the Whatcom County Executive or his or her designee. No separate legal or administrative entity is established under this Agreement.

ARTICLE 3. PROGRAM PHASES

The Parties agree to support and fulfil the Program implementation through a three-phase approach.

1. **Phase 1: Implementation Planning and Budgeting.** Program implementation planning and budgeting includes but is not limited to:

- A. Washington State Department of Transportation (WSDOT) Signage review:

1. City of Bellingham shall initiate the required Washington State Department of Transportation (WSDOT) review and approval for signage on WSDOT right-of-ways.
2. When coordination between the other Parties is needed for the WSDOT review, all Parties will facilitate that review in an expedient manner. Whatcom County's Project Manager will coordinate responses, as appropriate.
3. City of Bellingham and Whatcom County agree to equally share in the cost of WSDOT review, in an amount not to exceed \$40,000 collectively.

- B. Program Management:

1. Whatcom County will issue a Request for Qualifications (RFQ) to hire a Program Management firm or Program Manager. The County will contract with the Program Management Firm or Program Manager on behalf of the Parties, who will oversee the following, or similar tasks:
 - a. Work with MERJE to complete a bid-ready set of construction documents, including engineering review of the documents, provided by a Washington State licensed engineer. This may require hiring an engineering firm directly.
 - b. Develop an updated engineer's cost estimate of the bid-ready construction plans.
 - c. Develop a Management and Maintenance plan, utilizing the Management & Maintenance Wayfinding Tools, March 29, 2018 document as a framework as outlined in Exhibit A, Management and Maintenance Project Plan.
 - d. Other tasks as determined in consultation with the Parties.

C. Program Budget:

1. Whatcom County shall set up a separate County cost center for the purposes of tracking and auditing the revenue and expenditures for the Program.
2. All Parties shall engage their respective committees and council to secure the required funding commitment for the implementation of the Program prior to the end of 2019.
3. All Parties will pay their proportionate share, based upon Exhibit B, of the cost of the Program Management Services described in section 3.1.B, including all costs to complete engineering and a bid-ready set of construction documents and specifications.

2. Phase 2: Program Management, Design, Procurement and Installation.

A. Cost Sharing Agreement:

1. The Parties will provide Whatcom County with revenue to carry out the Program as outlined in Exhibit B, Cost-Sharing Plan, subject to subsection 3.2.C below, and as modified by task order entered pursuant to Article 4.
2. The respective cost-share of each Party for all management, design, procurement, and installation related to the Program shall be as outlined in Exhibit B, Cost-Sharing Plan, subject to subsection 3.2.C below. Parties will be billed for actual costs commensurate for their respective share as set forth in Exhibit B for the purposes specified in this Agreement, or as otherwise modified pursuant to subsection 3.2.C.
3. This Cost Sharing Plan may be amended based upon updated design, fabrication methods, implementation strategy, financing strategy, engineer's estimate, etc., pursuant to subsection 3.2.C and through execution of a task order per Article 4.
4. Each jurisdiction agrees to work with the Program Manager to finalize their respective jurisdiction's vehicular, parking, and/or pedestrian portion of the Program cost estimates of the Cost Sharing Agreement.

B. Program Management:

1. Whatcom County shall contract for the Program Management services for Phase 2 implementation.
2. Whatcom County's responsibility to contract for the Program Management services of Phase 2 implementation will include

procurement, bidding, contract management, installation oversight, approval process, project acceptance, and other activities related to Program management; except as otherwise directed pursuant to subsection 3.2.C and task order under Article 4.

C. Choices by Parties and Costs:

1. Approval Authority. Each of the Parties shall have the authority to approve or disapprove the design, materials, and implementation strategy and methods for any sign or other products developed under this Agreement for use within its jurisdiction. None of the Parties shall be required to share in the costs of design, procurement, or installation of signs or other products produced under this Agreement which they have not previously approved, including costs identified in Exhibit B. Said approval of a Party shall be entered by task order.
2. Independent Bids. Each of the Parties shall have the right to procure, acquire, and install any agreed upon sign or product design through its own separate public bidding, purchasing, procurement, or installation process, at its own expense.

3. *Phase 3: On-going Management, Maintenance, Replacement, and Decommissioning Plan.*

1. The Parties will prepare a long-term Management, Maintenance and Replacement and Decommissioning Plan ("Plan") that will incorporate findings and recommendations into a separate interlocal agreement or an amendment of this Agreement.
2. The Parties will pay their fair share of all long-term management, maintenance, replacements, and decommissioning related to the Program, in the proportion established in Exhibit B, unless otherwise modified pursuant to subsection 3.2.C above. Parties will be billed for actual costs commensurate for their respective share, for the purposes specified in the Plan.

4. *Property Ownership.* For any personal or real property ("Property") acquired pursuant to expenditures identified in Exhibit B of this Agreement; the ownership of such Property shall be determined by its locus. Property to be located within one of the Cities shall become the Property of that City. Property located in the County but outside any of the Cities shall become the Property of the County. Property with an indeterminate location, shall become the Property of the County.

ARTICLE 4. MANAGEMENT AND ADDITIONAL COMMITMENTS

During the term of this Agreement, individual Parties may make independent decisions on the subject of this Agreement, best suited to that individual community, which will result in an exceedance or reduction of the costs outlined in Exhibit B and may increase or reduce its individual cost allocation and pro rata share set forth in Exhibit B. Decisions by individual Parties resulting in cost allocations or pro rata shares at variance with Exhibit B, shall be accomplished by task order in accordance with this Article 4.

4.1 *Services, Materials, and Products Defined by Task Order.* Consistent with the achievement of a common objective to further the purpose of this Agreement, each Party may make independent decisions regarding services, materials, and products as described in subsection 3.2.C, which may increase or decrease its cost allocation and pro rata share otherwise due under Exhibit B. Any such independent decision shall be reflected by execution of a task order by the Party, which shall describe the variation in services, materials, and/or products resulting in a change to Exhibit B. Specification of services, materials, and/or products for each Party shall be delineated in sequentially numbered task orders.

4.2 *Agreement for Task Order and Funding.* Each task order shall be signed by the authorized signer for the Party providing the task order and shall be delivered to the County. Any task order which by its own terms requires the written agreement of one or more other Parties shall identify such Parties and be signed by the authorized signer for each of them. Funding for each task order, each Parties share of such funding or expense, and any limitations thereon, shall also be specified and agreed upon in each separate task order. The maximum budget for a task order shall not be exceeded without the mutual written agreement of the Parties to the task order by execution of an amended task order. In the event one Party unilaterally directs an outside consultant to expand the scope of work or increase the cost beyond what is authorized a task order entered in accordance with this Agreement, said Party providing such direction to the consultant shall be solely responsible for that portion of the cost in excess of the maximum budget agreed upon.

4.3 *Minimum Process Requirements.* The acquisition of any additional outside services or materials pursuant to this Agreement, shall comply with the minimum requirements applicable to the Parties under federal and state law, and local ordinances and policies, including without limitation requirements for requests for qualifications, requests for proposals, and for bidding.

4.4 *Ownership of Property Acquired.* For any Property acquired pursuant to a task order, the task order shall specify the Party which will own and be responsible for the Property. No Party shall obtain, accept, or acquire any real or personal property under this Agreement, in excess of what is authorized herein, without executing a task order or amendment of this Agreement specifying the manner of acquiring, holding and disposing of real and/or personal property.

ARTICLE 5. PAYMENT

5.1 *Invoice Transmittal.* Following receipt by any Party of an invoice from the County for services and/or materials authorized pursuant to Exhibit B or a task order, said Party shall transmit a copy of the invoice for such services and/or materials to the County along with payment. The Parties shall make a good faith effort to review invoices without delay and to indicate any disapproval of same in writing within one (1) week of their receipt. The Parties shall attempt to resolve payment disputes as quickly as possible.

5.2 *Failure to Pay.* In the event that a Party does not pay its share of an invoice for its obligations under Exhibit B or an agreed task order within thirty (30) days from the date of receipt, the County may provide the non-paying Party a notice of intent to suspend and/or direct the suspension of all or any portion of the work authorized by this Agreement on behalf of the non-paying Party. If no payment or authorization of payment is forthcoming from the non-paying Party within five (5) days of its receipt of a notice of intent to suspend work, the County may in its sole discretion suspend and/or direct the suspension of all or any portion of the work authorized by this Agreement on behalf of the non-paying Party. The County shall under no circumstances be required to pay the non-paying Party's share, but may do so in its sole discretion without prejudice to any future determination that the non-paying Party is liable for reimbursement of such payment under this Agreement.

ARTICLE 6. DURATION

This Agreement shall be effective upon signature of the Parties and shall remain in effect for five (5) years, unless otherwise earlier terminated pursuant to Article 5. The Parties may extend the term of this Agreement for two (2) additional five (5) year terms by mutual written agreement.

ARTICLE 7. TERMINATION AND WITHDRAWAL

7.1 *Required Notice.* This Agreement may be terminated by the County, or by any three other Parties at any time, with or without cause, by providing ninety (90) days prior written notice thereof to the other Parties.

7.2 *Costs and Fees.* Upon termination, each Party shall be responsible for its share of the fees and costs incurred up to the date of termination in accordance with the terms herein.

7.3 *One Party Withdrawal.* Except for the County, one or two Parties may not unilaterally terminate this Agreement, but any Party may withdraw from it by providing ninety (90) days prior written notice. Upon withdrawal, each withdrawing Party shall be responsible for its share of the fees and costs incurred up to the date of withdrawal in accordance with the terms herein.

7.4 *Disputes.* In the event the Parties cannot agree to resolution of any dispute relating to termination within sixty (60) days before or after of the termination date of this Agreement, then the dispute shall be processed in accordance with Section 8.2 herein before any litigation is initiated.

ARTICLE 8. ADMINISTRATIVE; OTHER PROVISIONS

8.1 Notice. All Parties agree to coordinate with the implementation and maintenance of the Program by identifying the appropriate representative in their respective Administration and Public Works Departments and will submit contact information to the Whatcom County Administrative Services Coordinator within 30 days of execution of this Agreement. The County shall then distribute said contact information to the Cities. Notice shall be deemed received by a Party if and when it is either hand delivered, faxed, mailed, or emailed to such address as is provided by such Party. Facsimile or email transmission or retransmission of any signed original document shall be the same as delivery of an original document.

8.2 Dispute Resolution. Any dispute arising out of the terms and conditions of this Agreement shall first be subject to the following mediation process. If a dispute shall arise, a meeting shall be held promptly between the Parties to attempt in good faith to negotiate a resolution to the dispute. For purposes of this section 8.2 "promptly" shall mean within fourteen (14) calendar days of a Party requesting a meeting to resolve a dispute. If within ten (10) days after such meeting the Parties have not succeeded in resolving the dispute, then the dispute shall be mediated. Any Party may provide written notice to the others that the dispute shall be submitted to mediation and a mediator shall be selected. In the event that within seven (7) days of receipt of said written notice the Parties are unable to agree on a mediator, any Party may request appointment of a mediator by the Whatcom County Superior Court. The Parties shall cooperate to assure that mediation occurs in a timely manner and shall supply all materials provided to the mediator to the other Parties at least two (2) days before mediation. Engaging in mediation shall not affect any claim, right, remedy, or defense of any Party. Should mediation prove unsuccessful, all claims, rights, remedies and defenses of each party shall be preserved.

8.3 Parties Are Separate Entities. The Parties are separate and independent public entities operating pursuant to the terms and conditions of this Agreement. No agent, employee, or representative of a Party to this Agreement shall be deemed to be an agent, employee, or representative of any other Party for any purpose.

8.4 Mutual Release. To the extent permitted by law, each Party hereby releases every other Party, its successors and assigns, council members, officers, employees, agents, and representatives from any and all claims, losses, injuries, harm, liabilities, damages, costs, charges and expenses including all reasonable and necessary attorney's fees incurred in connection with performance under this Agreement.

8.5 Mutual Indemnification. Each Party shall indemnify, defend, and hold harmless each and every other Party, its officers, agents and employees from all suits, claims or liabilities of any nature, including attorney fees, costs and expenses, for or on account of injuries or damages sustained by any person or property resulting from acts or omissions of said Party, its agents or employees in connection with performance under this Agreement.

8.6 Nonwaiver of Breach. Failure of any Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

8.7 Severability. If any term or provision of this Agreement or the application thereof to any person, entity or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons, entities or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.8 Governing Law. The laws of the State of Washington shall govern any disputes arising under this Agreement.

8.9 Venue. Subject to section 8.2 herein, any disputes shall be adjudicated in the Superior Court for Whatcom County, Washington, unless otherwise agreed.

8.10 Section Headings. Section headings or captions are for reference only and shall not affect the construction or interpretation of this Agreement.

8.11 Applicability. This Agreement shall not supersede any existing agreements, interlocal agreements and amendments to interlocal agreements in effect between any of the Parties as of the date of this Agreement.

8.12 Entire Agreement – Modifications Must Be In Writing. This Agreement constitutes the entire agreement between the Parties as to the matters contained herein. This Agreement may be modified in writing only, upon mutual agreement of the Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of ____, 2019.

City of Bellingham signature page for agreement with _____.

DATED this _____ day of _____, 20__, for the **CITY OF BELLINGHAM:**

Mayor

Attest:

Finance Director

Departmental Approval:

Approved as to Form:

Office of the City Attorney

Accepted for City of Blaine

Mayor of Blaine

Attested by: _____

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this ____ day of _____, 2019, before me personally appeared Bonnie Onyon, to me known to be the Mayor of Blaine and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

Accepted for City of Ferndale

Mayor of Ferndale

Attested by: _____

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this ____ day of _____, 2019, before me personally appeared John Mutchler, to me known to be the Mayor of Ferndale and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

Accepted for City of Lynden

Mayor of Lynden

Attested by: _____

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this ____ day of _____, 2019, before me personally appeared Scott Korthius, to me known to be the Mayor of Lynden and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

Accepted for City of Everson

Mayor of Everson

Attested by: _____

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this ____ day of _____, 2019, before me personally appeared John Perry, to me known to be the Mayor of Everson and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

Accepted for City of Sumas

Mayor of Sumas

Attested by: _____

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this ____ day of _____, 2019, before me personally appeared Kyle Christensen, to me known to be the Mayor of Sumas and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

Approved as to form:

Prosecuting Attorney Karen J. Frakes Date 11/21/19

Approved:

Accepted for Whatcom County:

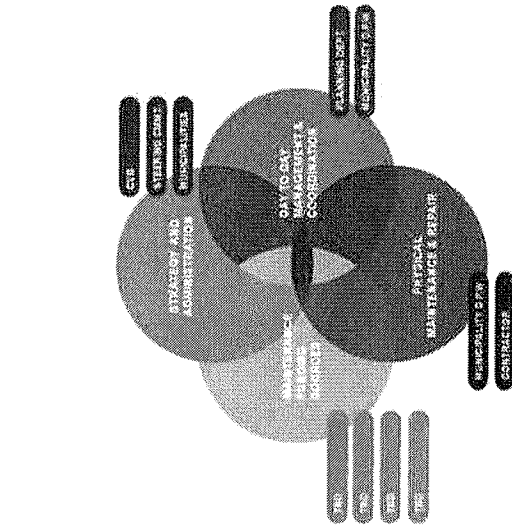
Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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 _____

MANAGEMENT & MAINTENANCE



Signage	0-3 years	3-5 years	10-15 years
Design and Planning	Design, General Evaluation of positive and negative aspects of the system Planning: City in-house maintenance based on new request and circulation/destination updates	Design: General Evaluation of positive and negative aspects of the system Planning: Contract with a consultant to analyze major changes to the City and necessary system adjustments, 1 or 2 updates possible during this time period	If the system has not been analyzed since implementation, a major updating is likely to be required. Outdated components may be replaced, system, as well as make suggested changes based on new circulation, destinations, etc.
Vandalism	Annual cleaning/repair: stickers and graffiti are not common. Cleaning solvents and Goo-Gone are typical products utilized.	Paints replacements and full sign replacement as needed. Cleaning solvents and Goo-Gone are typical products utilized.	Paint replacements / full sign replacement as needed. Cleaning solvents and Goo-Gone are typical products utilized.
Cleaning Schedule	Annual Cleaning	Annual Cleaning	Annual Cleaning
Management: Administration	Weekly coordination between City and contractor during year 1 and 2. Day-to-day monitoring of the system, based on the City's observations, safety issues and citizens reports.	Annual coordination between City and contractor during year 1 and 2. Day-to-day monitoring of the system, based on the City's observations, safety issues and citizens reports.	Annual coordination between City and contractor during year 1 and 2. Day-to-day monitoring of the system, based on the City's observations, safety issues and citizens reports.
Buskaway Product: Transit	Maintenance Free - Covered under Warranty for 3 years.	Maintenance Free - Consider general review as part of yearly inspection process.	Maintenance Free - Consider general review as part of yearly inspection process.
Reflectivity Life Span: 200 High Intensity Diamond Grade	Covered under warranty for 5-8 years. Covered under warranty for 3 years.	Covered under warranty for 5-8 years. Reflectivity may be effective beyond the warranty period. Individual signs may require sheeking to be replaced during this time period.	Reflectivity becomes less effective, if not previously replaced, 10 - 15 years is the maximum lifespan.

Construction	0-3 years	3-5 years	10-15 years
Custom Color Life: Contrast High Intensity Diamond Grade	Color generally maintained by manufacturer. Depends on direction sign panel is facing.	Fading may begin. Individual signs may require sheeking to be replaced during this time period.	Fading occurs, if not previously replaced, 10 - 15 years is the maximum lifespan.
General Materials: Aluminum Sign Panels & Posts	Specifications require 5 year fabricator warranty for workmanship. General wear-and-tear maintenance required.	General wear-and-tear maintenance required.	General wear-and-tear maintenance required.
Painted Surfaces	Covered under manufacturer warranty. General wear-and-tear lock-up will be required.	Warranty expires. Typically color holds up beyond warranty period. Fading may begin depending on the direction sign panel is facing. Individual signs may require individual parts to be replaced during this time period.	Fading occurs - based on direction sign panel is facing - 10 - 15 years is the maximum lifespan to expect.
Sign Panels / Fasteners	Specifications require 5 year fabricator warranty for workmanship. General repairs and replacement due to auto incidents or vandalism. Inspect welds and fasteners for connection integrity.	Quantity of repairs increases, if not maintained previously. Inspect welds and fasteners for connection integrity.	Consider full inventory of system and repairs based on consistency of maintenance and up-keep over the years.
Structural Pans / Brackets	Specifications require 5 year fabricator warranty. General repairs and replacement of parts due to auto incidents or vandalism. Inspect welds and fasteners for connection integrity.	Quantity of repairs increases, if not maintained previously. Inspect welds and fasteners for connection integrity.	Consider full inventory of system and repairs based on consistency of maintenance and up-keep over the years.
Concrete Peders	Maintenance free. Inspect structural integrity - similar to any construction project.	Maintenance free. Inspect structural integrity - similar to any construction project.	Maintenance free. Inspect structural integrity - similar to any construction project.

MANAGEMENT & MAINTENANCE

MANAGEMENT
After approval of a sign design, a yet to be determined authority or individual jurisdictions will seek approval for sign routes, final sign locations, and an ongoing maintenance and management plan. With the approval of these standards the yet to be determined authority or individual jurisdictions will have approval for the full installation of signs.

MANAGEMENT
The establishment of a governing body that oversees the funding, maintenance and expansion. A project manager must be assigned the responsibility of the day to day management of the system.

MAINTENANCE FUNDING AND CONTRACTS
Maintenance should be a shared responsibility between a yet to be determined authority or individual jurisdictions and the programs Stakeholders.

ANNUAL BUDGETS:
Generally 10% - 15% of the total phasing cost should be established for annual maintenance of the system.

Initial "at-risk stock" of parts should be included in the base bid of each phase of the project.

By purchasing materials and parts in a large quantity a yet to be determined authority or individual jurisdictions will reduce its overall costs. At-risk stock can include poles (painted), sign panels (painted/no lettering), brackets finished and painted, and other parts.

Average annual maintenance budget is 10% - 15% of the total project construction cost.

DAY-TO-DAY MAINTENANCE PROCESS FOR REPAIR OR REPLACEMENT OF EXISTING SIGNS



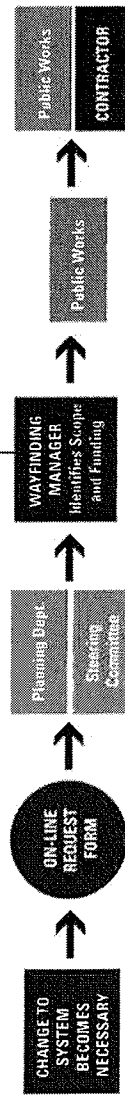
County Public Works & Staff
Monitor Sign Program

WAYFINDING MANAGER (TBD)
Places Order with Approved Vendor

County Quality Control
Contract Fabrication and Installation

LONG TERM MAINTENANCE PROCESS FOR ADDITION, SUBTRACTION or ALTERATIONS TO THE SYSTEM (annual)

Depending on the quantity of signs or complexity of the new routing a consultant may be required to assist with planning or possibly designing new elements



DESTINATION
Identifies Need

DESTINATION
Submits Online Request Form to WAYFINDING MANAGER

Based on program criteria
Planning Dept. and Steering Committee Reviews Request

WAYFINDING MANAGER Quality Control
County Approves Funding

County Places Order with Approved Vendor

County Quality Control
Contract Fabrication/ Installation

Exhibit B

WAYFIND FUNDING STRATEGY

	County	Bellingham	Blaine	Everson	Ferndale	Lynden	Sumas	Lummi Nation	Project Total
Gateways - County	196,000								196,000
Gateways - City		92,600	3,900	25,100	21,400	24,800	36,000	19,300	223,100
Gateways - Port Airport	27,000								27,000
Regional Wayfinding - Mountain	76,400								76,400
Regional Wayfinding - Birch Bay	159,500								159,500
Regional Wayfinding - Lummi Island	29,850								29,850
Regional Wayfinding - Pt. Roberts	44,350								44,350
Vehicular Directional Implementation Costs	39,675	685,550	154,600	20,450	125,500	236,750	29,850	35,100	1,287,800
		39,675	39,675	39,675	39,675	39,675	39,675	39,675	317,400 *
Vehicular Total	572,775	817,825	198,175	85,225	186,575	301,225	105,525	94,075	2,361,400
Economic Development (EDI) Fund		(50% of Vehicular)	(50% of Vehicular)	(95% of Vehicular)	(50% of Vehicular)	(50% of Vehicular)	(95% of Vehicular)		
Port of Bellingham's Share (50% of their share)	27,000	408,913	99,088	80,964	93,288	150,613	100,249		933,113
WWU's Share		59,000							86,000
LTAC or Municipal Funding	545,775	329,913	99,088	4,261	93,288	150,613	5,276	94,075	1,322,288
Parking and Pedestrian - Port Share (3 Waterfront/Ferry)		24,600							24,600
Parking and Pedestrian - City, LTAC or Other		173,000	41,400	9,500	19,000	45,800			288,700
Municipal Cost for Full Implementation	502,913	502,913	140,488	13,761	112,288	196,413	5,276	94,075	1,610,988
Total Program Cost (No Freeway)									2,674,700

* There should be an opportunity for savings in this line item if implemented all at once.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-623

File ID:	AB2019-623	Version:	1	Status:	Agenda Ready
File Created:	11/21/2019	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Special Executive Only Item		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request approval of the Economic Development Investment (EDI) Board's recommendation for additional funding in the amount of \$500,000 and establishment of a \$2.2-million revolving loan fund for the Housing Affordability Through the Workforce Program (HATWF)

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memorandum

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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MEMORANDUM

To: Whatcom County Council Members
From: Tyler Schroeder, Deputy County Executive *TS*
Through: Jack Louws, County Executive *AL*
Subject: Economic Development Investment Board – Funding Recommendation for the Housing Affordability Through the Workforce Program (HATWF)
Date: November 21, 2019

At the last meeting of the EDI Board, the following recommendation was adopted by the Board and is being presented for confirmation by the County Council. If this recommendation of the Board is adopted by the Council, the administration will proceed with the preparation of a supplemental budget request for County Council review and approval.

<u>Project</u>	<u>Funding Request</u>	<u>Board Recommendation</u>	<u>Vote</u>
Housing Affordability through the Workforce Program	\$500,000 (loan)	\$500,000 (loan)	10-0

In addition to recommending a re-investment of loan dollars to this program, the EDI Board's vote also included a recommendation to establish a revolving loan fund with the EDI money that is committed to the HATWF program. At the meeting, the request was to set up a \$1.7 million revolving loan fund to include the \$500,000 recommended above. In further review of the program, the program already has \$1.7 Million invested into the program and the additional \$500,000 will bring the total up to \$2.2 Million. The intent of the EDI Board was to establish the revolving loan fund to be inclusive of the total amount invested into the program. Therefore, the Administration requests that the Council establish a HATWF revolving loan in the amount invested in the program, totaling \$2.2 Million dollars.

Recommended Motion

The County Council moves to invest an additional \$500,000 dollars from the EDI fund for the Housing Affordability Through the Workforce (HATFW) Program and establish a \$2.2 million-dollar revolving loan fund for the HATFW program.

Attached for further information is a spreadsheet showing the current HATWF loan balances, along with the draft meeting notes of the EDI Board meeting.

If you have any questions, please feel free to contact Tyler Schroeder at 778-5200.

Attachments: HATWF Loan Program balances
Draft Meeting Notes of EDI Board meeting of 11/7/19

Contract #201104044
 EDI Loan Program
 Cost Center 332213.7220

City of Bellingham - Vendor 83660
 City of Ferndale - Vendor 18649
 City of Blaine - Vendor 9822

152

Date	Current Request	Vendor	Recording #	Loan #	PO	Property	Loan Docs Included in AP Batch	Batch	Paid with check	Check Date	Balance	Admin Fee Paid	PAY OFF DATE	PAY OFF AMOUNT	DATE PAYOFF RECEIVED
Total	\$1,200,000.00														
07/12/11	\$6,019.35	Bham, City of	2110800343	2011-1	73537	2938 Madrona St	Yes	465236	864021	08/16/11	\$1,193,980.65	yes			
07/15/11	\$678.00	Bham, City of	2110800343	2011-1	73537	2938 Madrona St	Yes	465236	864021	08/16/11	\$1,193,302.65	yes			
07/15/11	\$12,647.95	Bham, City of	2110800343	2011-1	73537	2938 Madrona St	Yes	465236	864021	08/16/11	\$1,180,554.70	yes			
05/10/11	\$15,453.58	Bham, City of	2110902548	2011-2	73975	6497 Trigg Woods Ln	Yes	467646	869041	10/25/11	\$1,165,201.12	yes			
06/03/11	\$550.00	Ferndale, City of	2110902548	2011-2	74019	6497 Trigg Woods Ln	No	467206	870216	11/08/11	\$1,164,551.12	yes			
03/02/12	\$15,420.85	Ferndale, City of	2120202468	2012-1	75505	6493 Trigg Woods Ln	Yes	472006	880576	03/13/12	\$1,149,230.27	yes			
07/20/12	\$16,468.69	Ferndale, City of	2120703288	2012-2	76449	2392 Gordon Dr	Yes	477232	894093	8/21/2012	\$1,132,761.58	yes			
07/20/12	\$16,468.79	Ferndale, City of	2120703279	2012-3	76450	2357 Nicholas Dr	Yes	477232	894093	8/21/2012	\$1,116,292.79	yes			
07/20/12	\$16,468.79	Ferndale, City of	2120703300	2012-4	76451	2398 Gordon Dr	Yes	477232	894093	8/21/2012	\$1,086,824.00	yes	5/15/2019	\$17,589.13	5/15/2019
07/20/12	\$16,468.79	Ferndale, City of	2120703297	2012-5	76452	2394 Gordon Dr	Yes	477232	894093	8/21/2012	\$1,083,355.21	yes			
07/20/12	\$16,468.79	Ferndale, City of	2120703294	2012-6	76453	2390 Gordon Dr	Yes	477232	894093	8/21/2012	\$1,086,886.42	yes	06/06/17	\$17,954.65	6/13/2017
07/20/12	\$16,468.79	Ferndale, City of	2120703301	2012-7	76454	2349 Nicholas Dr	Yes	477232	894093	8/21/2012	\$1,050,417.63	yes			
07/20/12	\$16,468.79	Ferndale, City of	2120703285	2012-8	76455	2396 Gordon Dr	Yes	477232	894093	8/21/2012	\$1,033,948.84	yes			
07/20/12	\$16,468.79	Ferndale, City of	2120703282	2012-9	76456	2345 Nicholas Dr	Yes	477232	894093	8/21/2012	\$1,017,480.05	yes			
07/20/12	\$16,468.79	Ferndale, City of	2120703282	2012-10	76457	2353 Nicholas Dr	Yes	477232	894093	8/21/2012	\$1,001,011.26	yes			
07/20/12	\$16,468.79	Ferndale, City of	2120703276	2012-11	76458	2388 Gordon Dr	Yes	477232	894093	8/21/2012	\$984,542.42	yes	10/10/2018	\$17,475.48	10/10/2018
11/27/2012	\$20,756.35	Bham, City of	2130702258	2012-12	77063	2776 W. Indiana St	Yes	480885	902084	12/12/2012	\$963,786.12	yes			
3/25/2013	\$20,747.35	Bham, City of	2130301819	2013-01	78463	2780 W. Indiana St	Yes	485164	910921	4/21/2013	\$943,038.77	yes			
10/30/2013	\$18,362.24	Ferndale, City of	2130903023	2013-02	79409	2344 Nicholas Dr	Yes	492570	928333	10/20/2013	\$924,676.53	yes			
10/30/2013	\$18,362.24	Ferndale, City of	2130903047	2013-03	79410	2348 Nicholas Dr	Yes	492570	928333	10/20/2013	\$906,314.29	yes			
10/30/2013	\$18,362.24	Ferndale, City of	2130903029	2013-04	79411	2399 Gordon Dr	Yes	492570	928333	10/20/2013	\$887,952.05	yes			
10/30/2013	\$18,362.24	Ferndale, City of	2130903038	2013-05	79412	6227 Gordon Dr	Yes	492570	928333	10/20/2013	\$869,589.84	yes	7/8/2019	\$19,423.72	7/3/2019
10/30/2013	\$18,362.24	Ferndale, City of	2130903044	2013-06	79413	6281 Gordon Dr	Yes	492570	928333	10/20/2013	\$851,227.57	yes	10/31/19 (req)	\$19,496.16	
10/30/2013	\$18,362.24	Ferndale, City of	2130903026	2013-07	79414	6285 Gordon Dr	Yes	492570	928333	10/20/2013	\$832,965.33	yes	5/17/2019	\$19,397.57	5/17/2019
10/30/2013	\$18,362.24	Ferndale, City of	2130903032	2013-08	79415	6286 Gordon Dr	Yes	492570	928333	10/20/2013	\$814,503.09	yes			
10/30/2013	\$18,362.24	Ferndale, City of	2130903050	2013-09	79416	6282 Gordon Dr	Yes	492570	928333	10/20/2013	\$796,140.85	yes			
10/30/2013	\$18,362.24	Ferndale, City of	2130903041	2013-10	79417	6278 Gordon Dr	Yes	492570	928333	10/20/2013	\$777,778.61	yes			
10/30/2013	\$18,362.24	Ferndale, City of	2130903035	2013-11	79418	6274 Gordon Dr	Yes	492570	928333	10/20/2013	\$759,416.37	yes			
2/20/2014	\$6,983.00	BB Water District	2140102431	2014-01	80275	7535 Leeside Dr. #6	Yes	496635	936969	2/25/2014	\$752,433.37	yes			
9/15/2014	\$14,119.57	City of Bellingham	2140802591	2014-3a	80924	2933 Lafayette St.	Yes	504108	953274	9/23/2014	\$738,313.80		Kulshan Trust		#2014-2
9/15/2014	\$14,119.57	City of Bellingham	2140802591	2014-3b	80924	2939 Lafayette St.	Yes	504108	953274	9/23/2014	\$724,194.23		Kulshan Trust		#2014-2
9/15/2014	\$14,119.57	City of Bellingham	2140802591	2014-3c	80924	2937 Lafayette St.	Yes	504108	953274	9/23/2014	\$710,074.66		Kulshan Trust		#2014-2
4/16/2015	\$16,000.00	Ferndale, City of	2150402822	2015-10	82170	5542 S. Church Rd.	Yes	511985	970631	4/21/2015	\$694,074.66	yes	1/25/2019	\$16,600.99	1/22/2019
4/16/2015	\$16,000.00	Ferndale, City of	2150402804	2015-4	82165	5544 S. Church Rd.	Yes	511985	970631	4/21/2015	\$678,074.66	yes			
4/16/2015	\$16,000.00	Ferndale, City of	2150402797	2015-5	82166	5546 S. Church Rd.	Yes	511985	970631	4/21/2015	\$662,074.66	yes			
4/16/2015	\$16,000.00	Ferndale, City of	2150402816	2015-6	82171	5548 S. Church Rd.	Yes	511985	970631	4/21/2015	\$646,074.66	yes	06/07/17	\$16,339.29	6/9/2017
4/16/2015	\$16,000.00	Ferndale, City of	2150402813	2015-1	82162	5550 S. Church Rd.	Yes	511985	970631	4/21/2015	\$630,074.66	yes			
4/16/2015	\$16,000.00	Ferndale, City of	2150402819	2015-2	82163	5552 S. Church Rd.	Yes	511985	970631	4/21/2015	\$614,074.66	yes	12/28/16	\$16,266.00	1/3/2017
4/16/2015	\$16,000.00	Ferndale, City of	2150402810	2015-3	82168	5554 S. Church Rd.	Yes	511985	970631	4/21/2015	\$598,074.66	yes			
4/16/2015	\$16,000.00	Ferndale, City of	2150402807	2015-4	82164	5556 S. Church Rd.	Yes	511985	970631	4/21/2015	\$582,074.66	yes			
4/16/2015	\$16,000.00	Ferndale, City of	2150402794	2015-5	82167	5558 S. Church Rd.	Yes	511985	970631	4/21/2015	\$566,074.66	yes			
4/16/2015	\$16,000.00	Ferndale, City of	2150402801	2015-6	82169	5560 S. Church Rd.	Yes	511985	970631	4/21/2015	\$550,074.66	yes			
9/29/2015	\$13,697.84	City of Blaine	2015-0903136	2015-11	82658	2451 Evans Dr.	Yes	522820	994541	3/1/2016	\$536,376.82	yes	07/21/17	\$16,358.58	7/20/2017
9/29/2015	\$13,703.19	City of Blaine	2015-0903137	2015-12	82659	2467 Evans Dr.	Yes	522820	994541	3/1/2016	\$522,673.63	yes			
9/29/2015	\$13,697.46	City of Blaine	2015-0903133	2015-13	52660	2448 Earls Court	Yes	522820	994541	3/1/2016	\$508,976.17	yes			
9/29/2015	\$13,697.84	City of Blaine	2015-0903138	2015-14	82661	2447 Evans Dr.	Yes	522820	994541	3/1/2016	\$495,278.33	yes			
9/29/2015	\$13,697.84	City of Blaine	2015-0903134	2015-15	82662	2457 Evans Dr.	Yes	522820	994541	3/1/2016	\$481,580.49	yes			

Date	Current Request	Vendor	Recording #	Loan #	PO	Property	Loan Docs Included in AP Batch	Batch	Paid with check	Check Date	Balance	Admin Fee Paid	PAY OFF DATE	PAY OFF AMOUNT	DATE RECEIVED	
9/28/2015	\$13,734.80	City of Blaine	20150903135	2015-46	82863	2452 Earls Court	Yes	522820	894641	3/1/2016	\$467,845.56	Yes	11/1/18	\$14,181.28	11/1/2018	
7/12/2016	\$13,734.80	City of Blaine	20160902733	2016-01	84104	2438 Earls Court	Yes	530712	1010920	10/4/2016	\$454,110.76	Yes				
7/12/2016	\$13,734.80	City of Blaine	20160902730	2016-02	84105	2444 Earls Court	Yes	530712	1010920	10/4/2016	\$440,375.96	Yes				
7/12/2016	\$13,734.80	City of Blaine	20160902724	2016-03	84107	2449 Earls Court	Yes	530712	1010920	10/4/2016	\$426,541.16	Yes				
7/12/2016	\$13,734.80	City of Blaine	20160902721	2016-04	84108	2441 Evans Drive	Yes	530712	1010920	10/4/2016	\$412,906.36	Yes				
7/12/2016	\$13,734.80	City of Blaine	20160902727	2016-05	84109	2461 Evans Drive	Yes	530712	1010920	10/4/2016	\$399,171.56	Yes				
7/12/2016	\$13,734.80	City of Blaine	20160902736	2016-06	84106	1466 Leighton Street	Yes	530712	1010920	10/4/2016	\$385,436.76	Yes				
7/12/2016	\$13,734.80	City of Blaine	20160902748	2016-07	84110	1470 Leighton Street	Yes	530712	1010920	10/4/2016	\$371,701.96	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101447	2016-08	84480	2443 Earls Court	Yes	534730	1019348	1/31/2017	\$357,967.16	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101444	2016-09	84481	2528 Baldwin Place	Yes	534730	1019348	1/31/2017	\$344,232.36	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101428	2016-10	84482	2532 Baldwin Place	Yes	534730	1019348	1/31/2017	\$330,497.56	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101435	2016-11	84483	2536 Baldwin Place	Yes	534730	1019348	1/31/2017	\$316,762.76	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101432	2016-12	84484	1446 Leighton Street	Yes	534730	1019348	1/31/2017	\$303,027.96	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101441	2016-13	84485	1454 Leighton Street	Yes	534730	1019348	1/31/2017	\$289,293.16	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101425	2016-14	84486	1458 Leighton Street	Yes	534730	1019348	1/31/2017	\$275,558.36	Yes				
11/15/2016	\$13,734.80	City of Blaine	20170101438	2016-15	84487	1462 Leighton Street	Yes	534730	1019348	1/31/2017	\$261,823.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002308	2017-01	85922	2522 Evans Drive	Yes	544500	1042868	11/7/2017	\$247,543.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002299	2017-02	85923	2518 Evans Drive	Yes	544500	1042868	11/7/2017	\$233,263.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002293	2017-03	85924	2514 Evans Drive	Yes	544500	1042868	11/7/2017	\$218,983.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002317	2017-04	85925	2510 Evans Drive	Yes	544500	1042868	11/7/2017	\$204,703.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002310	2017-05	85926	2470 Evans Drive	Yes	544500	1042868	11/7/2017	\$190,423.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002320	2017-06	85927	2466 Evans Drive	Yes	544500	1042868	11/7/2017	\$176,143.56	Yes	Loan reassigned - January 2018			
6/28/2017	\$14,280.00	City of Blaine	20171002296	2017-07	85928	2462 Evans Drive	Yes	544500	1042868	11/7/2017	\$161,863.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002305	2017-08	85929	2456 Evans Drive	Yes	544500	1042868	11/7/2017	\$147,583.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002314	2017-09	85930	2444 Evans Drive	Yes	544500	1042868	11/7/2017	\$133,303.56	Yes				
6/28/2017	\$14,280.00	City of Blaine	20171002311	2017-10	85931	2432 Evans Drive	Yes	544500	1042868	11/7/2017	\$119,023.56	Yes				
2/2/2018	\$500,000.00			\$500k Added to program through Ord No. 2018-089												
3/9/2018	\$14,280.00	City of Blaine	20180402196	2018-01	87308	2515 Evans Drive	Yes	551075	1057735	5/1/2018	\$604,743.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402199	2018-02	87309	2530 Evans Drive	Yes	551075	1057735	5/1/2018	\$590,463.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402190	2018-03	87310	2526 Evans Drive	Yes	551075	1057735	5/1/2018	\$576,183.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402187	2018-04	87311	1463 Leighton Lane	Yes	551075	1057735	5/1/2018	\$561,903.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402214	2018-05	87312	1457 Leighton Street	Yes	551075	1057735	5/1/2018	\$547,623.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402202	2018-06	87313	1451 Leighton Street	Yes	551075	1057735	5/1/2018	\$533,343.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402205	2018-07	87314	1437 Leighton Street	Yes	551075	1057735	5/1/2018	\$519,063.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402211	2018-08	87315	1433 Leighton Street	Yes	551075	1057735	5/1/2018	\$504,783.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402193	2018-09	87316	1429 Leighton Street	Yes	551075	1057735	5/1/2018	\$490,503.56	No				
3/9/2018	\$14,280.00	City of Blaine	20180402208	2018-10	87317	1425 Leighton Street	Yes	551075	1057735	5/1/2018	\$476,223.56	No				
11/14/2018	\$37,526.50	City of Blaine	20190201104	2019-01	88828	1050 Telegraph Rd*	Yes	561564	1077961	2/15/2019	\$438,697.06	No				
5/22/2019	\$20,214.00	Ferndale, City of	20190603412	2019-02	89417	2098 Thornton St.	YES	566533			\$418,483.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603415	2019-03	89418	2096 Thornton St.	YES	566533			\$398,269.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603418	2019-04	89419	2094 Thornton St.	YES	566533			\$378,055.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603421	2019-05	89420	2092 Thornton St.	YES	566533			\$357,841.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603424	2019-06	89421	2088 Thornton St.	YES	566533			\$337,627.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603427	2019-07	89422	2086 Thornton St.	YES	566533			\$317,413.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603430	2019-08	89423	2084 Thornton St.	YES	566533			\$297,199.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603433	2019-09	89424	2082 Thornton St.	YES	566533			\$276,985.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603436	2019-10	89425	2080 Thornton St.	YES	566533			\$256,771.06	N/A				
5/22/2019	\$20,214.00	Ferndale, City of	20190603439	2019-11	89426	2078 Thornton St.	YES	566533			\$236,557.06	n/a				
8/12/2019	\$76,334.71	B'ham, City of		2019-12		Sarnish Way					\$160,222.35					
10/7/2019	\$160,216.00	Ferndale, City of				Mallory Rd. Project	8 new home loans				\$6.35		8 loans in the queue not yet assigned			
Total	94								NOTES							
Number of Loans									Average loan = \$15,569. (\$1,463,443/94 = \$15,569)							
									13 of the 95 loans paid back due to sale of home for a total reimbursement of \$204,801.65							
									*1050 Telegraph Road includes: 4003, 4007, 4011 and 4015 Todd Lane - two additional phases to come.							
									Updated 11/27/2019							Page 2 of 3

Minutes of Whatcom County EDI Board Meeting November
7, 2019 – 10:30 a.m.

Board Members present at Meeting:

Tyler Schroeder, Deputy Executive
Jim Kyle, Fishing Industry
Ken Bell, POB Commissioner
Aubrey Stargell, Timber Industry
Bonnie Onyon, City of Blaine Mayor

Scott Korthuis, City of Lynden Mayor
Stephen A. Jones, Agricultural Industry
Don Goldberg, Associate Development Org.
Jeff McClure, PUD#1
Guy Occhiogrosso, Chamber of Commerce

Board Members absent:

Jack Louws, County Executive
David Franklin, At-Large

Kelli Linville, Mayor, City of Bellingham
Rud Browne, Whatcom County Council

Staff present:

Tawni Helms and Suzanne Mildner, County Executive Office **Guests**

present:

Steve Moore, Moore & Company
Mark Sandal, City of Lynden

Don Korthuis Front Street Station
Paul Schissler, Community Planner

1. Welcome and Introductions

Deputy Executive Tyler Schroeder acted as Chair in the absence of Board Chair, Executive Louws. Mr. Schroeder let the board know that Executive Louws was absent due to a personal commitment that came up. He then welcomed everyone and called the meeting to order. Round table introductions were made of board members and guests. The Agenda was briefly reviewed.

2. Approval of Minutes of 7-10-19 EDI Board meeting

Mr. Schroeder asked if there were any amendments to the minutes. There being no amendments, Mr. Schroeder called for a motion to approve the minutes. Mr. McLure made a motion to accept the minutes into the record; seconded by Mayor Korthuis. The vote was taken and the motion passed unanimously 10-0.

3. EDI Fund Review – Projected Cash Balances as of 12/31/19 and 12/31/20

A handout of the Rural Sales Tax/EDI Fund was provided to board members. Deputy Executive Schroeder briefly went over the revenues, expenditures and commitments noted on the revised spreadsheet. At year end 2019 there are projected cash balances of \$1.5 million for capital/county projects, -\$1.2 million for agency loans, and \$1.9 million available for agency grants. There are also 2020 projections, with 2020 sales tax revenue estimated to be \$4.7 million. Mr. Schroeder pointed out the loan interest and repayments estimated cash balance for 2020 is \$9.6 million. The fund is in good shape. He also noted that the estimated loan balance figure is a negative number: \$523,086. This is due to the fact that more money was loaned out than the 35% allocated for loans. This was deemed reasonable due to the healthy fund balance. Expenditure details are noted on the next 2 pages of the report.

Mr. Goldberg commented on the State's ".09 EDI" tax. The legislature is talking about extending it. The County's fund sunsets in 2025, he believes, and there is a movement to use .09 funds for all counties, not just rural counties. Whatcom County exceeded the population threshold designating us a rural county. However, the state legislation has allowed the counties that exceed the rural definition to remain eligible since they levied the tax prior to when we exceeded the rural threshold. The fund's sunset date was also discussed, as it is deemed to be later than 2025, however no clear date was given (Research after the meeting suggests that EDI Board Meeting Notes 11/7/19 Page 2

according to ORD2015-030 the local fund expires July 31st, 2032). Whatcom County needs to keep informed on developments with this legislative topic.

4. Application: City of Lynden's road project for West Front Street

Mayor Korthuis introduced the West Front Street project, which involves extending the road 1900 feet to the West. He introduced Mark Sandal who provided a power point presentation. This project will provide improvements to bring the street to commercial arterial standards with full sewer and storm utilities, sidewalks, etc. It will provide commercial transportation access to about 100 acres of Lynden's growing commercial and industrial zoned lands and ultimately provide future access to another 140 acres of the city's adjacent UGA. It also will provide alternative access to Lynden Door's campus to the north – they are one of the largest door manufacturers in the western U.S. Several other current businesses will benefit and are supportive of the project. The project is listed on the county's CEDS list and is considered fitting as an economic driver due to several factors, including retention and creation of jobs, diversification of industry, agricultural support, etc.

Questions arose and were discussed, including developer fees and impact fees, as well as the numbers of jobs created as a result of this project. The businesses in the area are highly supportive and have donated right of way access. This road is classified by WSDOT as a functionally classified route (federal classification).

The ask of the EDI Program is \$2-million loan, \$1-million grant. The project timeline is estimated as follows: engineering design completed in January 2020, with bid going out in February, and construction started in March of April.

Mr. Schroeder called for questions. Commissioner Bell commented that he feels this fund request is a "heavy lift" and \$3-million is too high a figure. He's not supporting it. Mayor Korthuis spoke about other similar fund requests and in particular the West Lynden Street project that ultimately created jobs and benefitted the community. He views this fund as being for that purpose (job creation). Mr. Jones questioned what the debt repayment would look like. Mayor Korthuis said it would be coming from general fund and other impact fees. Mr. McLure asked for clarification on job creation numbers listed in the application. Lynden Door plays a large role as they are making plans for expansion. Mayor Onyon asked if there has been any discussion of latecomer fees. Mayor Korthuis brought up the \$2.5 million stormwater improvement project from several years ago, and several businesses in the area have taxed themselves to pay that back. In other words, there has been significant local investment in this area for several years now already.

Mr. Schroeder called for a motion. Mr. Jones moved that the EDI Board make a recommendation to the County Council for approval of this project for a \$2 million loan and a \$1 million grant (the loan term 20 years at 1% interest). The motion was seconded by Mr. McLure. There was further discussion, with a few board members addressing their support of the project. Mr. Schroeder noted that Executive Louws supports the project and the EDI request. He also said the discussion today has been valuable and Mayor Lynden should prepare for addressing similar inquiries from councilmembers. There being no further discussion, the vote was taken and the **motion carried 8-2.**

5. Homes Affordable Through the Work Force (HATWF) Program re-investment

Mr. Schroeder referenced the handout which outlines the program's loan history and list of projects. Approximately \$204,000 has been paid back. The program has been so successful

EDI Board Meeting Notes

11/7/19

Page 3

and the fund has been depleted. The administration is recommending an additional \$500,000 EDI investment into this loan program. Secondly, the other item on the table is to recognize this as a revolving loan fund. We have already had \$1.2-million invested, and if we add the additional \$500,000, we'll have \$1.7-million total in the revolving loan fund.

Mr. Goldberg asked about previous comment from Executive Louws regarding an alternative funding source for affordable housing. Mr. Schroeder said he believes he was referencing Senate House Bill 1406, which is the affordable housing bill that just got passed that county and cities all work together – collecting approximately \$700,000 on an annual basis (this begins next year). It doesn't get used for this program, but for other similar affordable housing programs (60% AMI requirement). There was some discussion on the definition of workforce housing vs. affordable housing – these are different concepts, but there is an overlap. Mr. Schroeder commented that the EDI dollars go towards workforce housing, trying to reduce the overall cost to allow for workers to get into them. Mr. Goldberg said that they define workforce housing as housing meant for someone who is employed, but they still can't meet their house payment.

The question was raised would we need to add to the revolving fund annually? This is a question yet to be answered and the board should continue to review how the revolving loan status is doing and make a determination as to whether the fund be limited to a certain amount.

Mr. Schroeder called for a motion. Mayor Onyon moved that EDI Program reinvest \$500,000 into the HATWF Program and also establish a \$1.7-million revolving loan fund. The motion was seconded by Jim Kyle. A vote was taken and the **motion carried unanimously 10-0.**

6. Countywide Wayfinding

Mr. Schroeder asked the board if they wanted to continue with this agenda item, and all agreed that the meeting had run long. He told the board that in the near future, there will be a request coming in for \$1-million for the county wayfinding project.

7. Other business - None

Meeting was adjourned at 11:45 a.m.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-616

File ID:	AB2019-616	Version:	1	Status:	Agenda Ready
File Created:	11/22/2019	Entered by:	SWinger@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Michael Bobbink for hearing examiner services

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memo.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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MEMORANDUM

TO: Jack Louws, County Executive
FROM: Cathy Halka, Legislative Analyst
RE: Contract for Hearing Examiner Services
DATE: November 1, 2019

Enclosed are two (2) originals of a professional services contract between Whatcom County and Michael Bobbink Land Use Services, Inc. for your review and signature.

▪ **Background and Purpose**

Michael Bobbink was the sole respondent to Whatcom County's Request for Proposals (RFP) for hearing examiner services. He has served as Whatcom County's hearing examiner for the last 24 years.

▪ **Funding Amount and Source**

Funding for this contract is included in the Hearing Examiner's 2020 budget and additional funds are included in a 2020 supplemental budget request. Mr. Bobbink is asking for a 10% increase in compensation. Mr. Bobbink has not requested an increase in compensation for the last 5 years. The last increase in funding for this contract was issued in 2015 in the amount of a \$6,194, a 7.5% increase, bringing the total compensation to \$88,783.32. The requested 10% increase (\$8,878.33) is less than the 13% Cost of Living increases provided over the last 5 years to Whatcom County unrepresented employees, and the new compensation of \$97,661.65 is comparable to hearing examiners in other Washington counties.

▪ **Differences from Previous Contract**

The terms of the agreement are mostly the same as the previous contract with the exception of the expiration date and the 10% increase in the contract amount and minor changes.

Please contact Cathy Halka at extension 5019, if you have any questions or concerns regarding the terms of this agreement.

Encl.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department:	Council
Division/Program: (i.e. Dept. Division and Program)	Click here to enter text.
Contract or Grant Administrator:	Cathy Halka
Contractor's / Agency Name:	Michael Bobbink

Is this a New Contract? 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): _____ 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): RFP #19-70 Contract Cost Center: 1600.6630

Is this agreement excluded from E-Verify? No ☐ Yes ☒ If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

☒ Professional services agreement for certified/licensed professional.

☐ Contract work is for less than \$100,000. ☐ Contract for Commercial off the shelf items (COTS).

☐ Contract work is for less than 120 days. ☐ Work related subcontract less than \$25,000.

☐ Interlocal Agreement (between Governments). ☐ Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>97,661.65</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>97,661.65</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:
The contractor shall perform the following hearing examiner duties in accordance with Whatcom County Code:

- Review applicable ordinances, statutes, and files in preparation for public hearing
- Preside over the hearing. Set the order of the testimony and ensure that all relevant material is included in the hearing record. Interrogate staff members and witnesses when appropriate.
- Conduct field inspections and examine the property which is the subject of the hearing, when appropriate.
- Review the facts and the applicable ordinances and statutes to determine whether the standards requisite for issuance of a permit have been met.
- Review administrative determinations appeal to the Hearing Examiner to ensure that the ordinances were correctly applied by the administrator, and that the facts were correctly determined.
- Prepare all written recommendations and decisions of applications for land use permits and administrative appeals within the time frame outlined in the Whatcom County Code.
- On rare occasions, the Hearing Examiner may appoint a Hearing Examiner Pro Tem to conduct hearings.

Term of Contract: 1 year	Expiration Date: 12/31/2020
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Contract Routing: 1. Prepared by: Cathy Halka Date: 11/1/2019
 2. Attorney signoff: KNE Date: 11/7/19
 3. AS Finance reviewed: MTZ Date: 11/7/19

- | | | | |
|-------------------------------------|-------|-------|-------|
| 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 AGREEMENT
 [Insert additional specific name for your clarification]

Michael Bobbink, 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 7,
 Exhibit A (Scope of Work), p. 8,
 Exhibit B (Compensation), p. 9.

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 January, 2020, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2020.

The general purpose or objective of this Agreement is to: Provide hearing examiner 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 \$ 97,661.65. 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.

IN WITNESS WHEREOF, the parties have executed this Agreement this 13th day of November, 20 19.

CONTRACTOR:

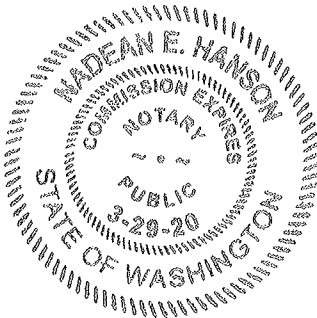
Michael Bobbink

Michael Bobbink

Michael Bobbink, Owner

STATE OF WASHINGTON)
) ss.
 COUNTY OF Whatcom)


On this 13th day of Nov, 2019, before me personally appeared Michael Bobbink to me known to be the owner (title) of hearing examiner services (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.




Wade E. Hanson
 NOTARY PUBLIC in and for the State of Washington, residing at Bellingham My commission expires 3-29-20.

WHATCOM COUNTY:

Recommended for Approval:

 11.21.19
Department Director Date

Approved as to form:

 11/5/19
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____

Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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:

Michael Bobbink
528 Clark Road
Bellingham, WA 98225

Contact Name: Michael Bobbink

Contact Phone: 360-734-9690
360-220-1134

Contact Email: mbobbink@comcast.net

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: Not Applicable

23.1 Labor Standards: Not Applicable

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 Pro Tempore Assignment:

On rare occasions, there may be hearings that the Hearing Examiner will not be able to conduct for reasons including, but not limited to, conflict of interest, illness, accident, or personal/family crisis. In those instances, the Hearing Examiner is granted the authority to appoint a Hearing Examiner Pro Tem to assist in the matter. The appointed Pro Tem shall be free of conflicts of interest in the matter and must be an active member of the Washington State Bar Association with experience related to the matter before the Hearing Examiner. The County reserves the right to reject the appointment. Payment for pro tem services is included in the gross compensation provided to the Hearing Examiner under the terms of this contract and is the sole responsibility of the Hearing Examiner. All terms and Conditions of the Agreement shall apply to the Hearing Examiner Pro tem.

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:

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.

31.1 Ownership of Items Produced:

When 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.

31.2 Patent/Copyright Infringement: Not Applicable

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 Proof of Insurance: Not Applicable

34.2 Industrial Insurance Waiver: Not Applicable

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

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

35.2 Non-Discrimination in Client Services:

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

36.1 Waiver of Noncompetition: Not Applicable

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:

Whatcom County Council Chair
311 Grand Avenue, Suite 105
Bellingham, WA 98225

37.2 Notice: Not Applicable

38.1 Certification of Public Works Contractor's Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions: Not Applicable

38.3 E-Verify: Not Applicable

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: Not Applicable

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: Not Applicable

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)

The contractor shall perform the following hearing examiner duties in accordance with Whatcom County Code:

- Review applicable ordinances, statutes, and files in preparation for public hearing
- Preside over the hearing. Set the order of the testimony and ensure that all relevant material is included in the hearing record. Interrogate staff members and witnesses when appropriate.
- Conduct field inspections and examine the property which is in the subject of the hearing, when appropriate.
- Review the facts and the applicable ordinances and statutes to determine whether the standards requisite for issuance of a permit have been met.
- Review administrative determinations appealed to the Hearing Examiner to ensure that the ordinances were correctly applied by the administrator, and that the facts were correctly determined.
- Prepare all written recommendations and decisions of applications for land use permits and administrative appeals within the time frame outlined in the Whatcom County Code.
- On rare occasions, the Hearing Examiner will appoint a Hearing Examiner Pro Tem to conduct hearings.

The County reserves the right to negotiate the assignment of major project permit applications outside of this contract

EXHIBIT "B"
(COMPENSATION)

In consideration of the services performed under the terms of this contract, the contractor shall be paid Eight Thousand One Hundred Thirty Eight and Forty Eight Cents (\$8,138.47) per month for a total not to exceed Ninety Seven Thousand Six Hundred Sixty One and Seventy Five Cents (\$97,661.65) to the end of the contract date of December 31, 2020.

Billing Procedures: The contractor shall submit written claims on a monthly basis for reimbursement of services provided unless otherwise approved in writing by the County. It is agreed that the contractor shall be paid for his services within 30 days of receipt of the monthly claim and upon determination of accuracy. Monthly claims are to be submitted to the Clerk of the Council.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-626

File ID:	AB2019-626	Version:	1	Status:	Agenda Ready
File Created:	11/21/2019	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:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and North West Regional Council to provide Nursing Services at the Whatcom County Jail and Juvenile Detention in the amount of \$1,456,501.11

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

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

**WHATCOM COUNTY
SHERIFF'S OFFICE**

BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

MEMORANDUM

TO: Jack Louws, County Executive

FROM: Bill Elfo, Sheriff

RE: Contract for Nursing Services with Northwest Regional Council

DATE: November 21, 2019

Enclosed are two (2) originals of a Contract between Whatcom County and Northwest Regional Council (NWRC) for Nursing Services in the Jail for your review and signature.

▪ **Background and Purpose**

NWRC was awarded the bid for Nursing Services via the RFP process for 2020. They have provided us with Nursing Services since December of 2013. Included in this Contract are the Main Jail, the Work Center and Juvenile Detention.

▪ **Funding Amount and Source**

Funding for the Jail and Work Center will come from the approved 2020 Corrections Bureau budget with a maximum annual compensation of \$1,414,885.11 (\$55.31 per hour, 25,581 hours). Juvenile Detention's funding comes from their budget with a maximum annual compensation of \$41,616.00 (\$3,468.00 per month). The total combined annual compensation will not exceed \$1,456,501.11.

▪ **Differences from Previous Contract**

The per hour amount for the Jail will decreased by 0.65 cents but the number of hours worked will increase by 2,127. This is an increase of \$102,399.27 from last year. Juvenile Detention's amount remains the same.

Please contact Wendy Jones x6505 if you have any questions or concerns regarding this agreement.

Encl. (2)

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	Corrections/In Custody
Contract or Grant Administrator:	Laurie Reid
Contractor's / Agency Name:	Northwest Regional Council
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? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): 19-58 Contract Cost Center: 118160	
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"/> 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): \$ 1,456,501.11 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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 detainees in Juvenile Detention.	
Term of Contract: 1 year Expiration Date: 12/31/2020	

Contract Routing:	1. Prepared by: LR	Date: 11/19/19
	2. Attorney signoff: _____	Date: 11/21/19
	3. AS Finance reviewed: <i>blended</i>	Date: 11/21/19
	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 AGREEMENT
For Nursing Services at the Whatcom County Jail, Work Center and Juvenile Detention

Northwest Regional 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 8,
 Exhibit A (Scope of Work), pp. 9 to 11,
 Exhibit B (Compensation), pp. 12
 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 of January, 2020, regardless of date of signature and shall terminate on the 31st day of December, 2020. The term of this Agreement may be renewed for up to four (4) one-year terms for a total of five (5) years by mutual agreement of the parties. Notice of intent to extend the Agreement shall be presented in writing by either party on or before November 15th of any year.

The general purpose or objective of this Agreement is to provide nursing services and Jail Health Program oversight for the Whatcom County Jail, the Work Center and Juvenile Detention, 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 this agreement shall not exceed \$1,456,501.11.

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, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 20 ____.

CONTRACTOR:

Northwest Regional Council

 Dan Murphy, Executive Director

STATE OF WASHINGTON)
) ss.
 COUNTY OF _____)

On this ____ day of _____, 20 __, before me personally appeared Dan Murphy to me known to be the Executive Director of Northwest Regional Council and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

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

WHATCOM COUNTY:

Recommended for Approval:

wp
Sheriff Bill Elfo

11/21/19
Date

Approved as to form:

Jagun
Prosecuting Attorney

11/21/19
Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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
Dan Murphy, 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
Contact Email: MurphyDK@dshs.wa.gov

GENERAL CONDITIONS

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.

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.

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.

Termination for Reduction in Funding:

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

Termination for Public Convenience:

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

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."

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.

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.

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.

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.

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.

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.

Ownership of Items Produced:

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.

Ownership of Items Produced:

When 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.

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.

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.

Proof of 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 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

- | | |
|---------------------------------------|---|
| a. Property Damage - | \$ 500,000.00, per occurrence |
| b. General Liability & Bodily Injury- | \$1,000,000.00, per occurrence |
| | \$3,000,000 - Minimum, Annual Aggregate |

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. Professional Liability - \$1,000,000 per occurrence:

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 the professional liability insurance is a claims made policy, it will require a minimum of three years tail coverage, or, should the Contractor discontinue coverage either during the term of this contract or within three years of completion, the Contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

4. Additional Insurance Requirements and Provisions

- a. 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. Contractor's insurance shall be primary 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 not contributory to such insurance policies. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract.
- b. Verification of Coverage/Certificates and Endorsements. The Contractor shall furnish the County with a certificate of insurance and endorsements required by this 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 endorsement(s) required in this contract to the County prior to the commencement of any work on the contracted project.
- c. 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 strict compliance with all insurance requirements.
- d. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractor's employees, agents, and volunteers eligible for such coverage under the Industrial Insurance Act.
- e. The Contractor agrees Contractor's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

Mutual Indemnity:

To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its 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 are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

A Party shall not be required to indemnify, defend, or hold the other Party harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other Party.

In the event of any concurrent act or omission of the parties, negligent or otherwise, each party shall pay its proportionate share of any damages awarded based upon comparative liability. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

Survival of indemnity obligations:

The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

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

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

Non-Discrimination in Client Services:

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

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.

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:

Wendy Jones, Chief Corrections Deputy
Whatcom County Sheriff's Office/Corrections Bureau
311 Grand Ave.
Bellingham, WA 98225

Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for

all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

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.

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.

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.

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.

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.

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. CONTRACTOR RESPONSIBILITIES:

The Contractor shall:

1. Supervise and coordinate a team of health care professionals to provide health care to the inmates at the Whatcom County Jail and Work Center and detainees in Juvenile Detention. Hours for Juvenile Detention will be on an as needed basis, and will flex depending on acuity and number of juvenile offenders, and may, at times, require additional nursing resources.
2. Services for all three locations will include direct nursing, medication delivery, administrative and limited quality assurance services.
3. Review and follow-up on health receiving/screening information taken at booking by corrections staff. The JHP staff may be available to provide a second level health screen at the time of booking as necessary and as scheduled during the hours provided herein for JHP services.
4. Take health histories of those inmates in need of medical attention; obtain orders for medications for continuing care in the jail setting; suggest special housing arrangements and determine other therapeutic needs of the inmate. The JHP and Corrections Department staff shall work together to meet each inmate's medical needs.
5. Offer a screening physical examination to inmates prior to, or on, their 14th day of consecutive incarceration. Inmates will be offered an additional screening physical examination after every consecutive 12 months of incarceration.
6. Respond to inmates' written request for medical attention within 1 working day.
7. Refer inmates in need of medical or psychiatric treatment to the appropriate resource or facility. These include: jail physicians, nurse practitioner, jail dentist, jail psychiatrist, jail mental health professionals (MHP), St. Joseph Hospital Emergency Department, Designated Crises Responder (DCR), or other community resources.
8. Coordinate and schedule jail health care services including clinics conducted by the nurse, physician, psychiatrist, dentist and nurse practitioners.
9. Screen inmates for tuberculosis, as indicated, and refer those with positive results to the Whatcom County Health Department.
10. Work cooperatively with the Whatcom County Health Department to identify, treat and manage communicable diseases, including, but not limited to; notification of all reportable conditions as soon as they are identified, facilitation of identification of potential contacts, assist in testing, coordinating treatment.
11. Screen inmates to determine need for HIV testing, counseling and STD testing, at the 14 day screening physical exam.
12. Maintain a confidential medical record for all inmates treated by the JHP. JHP staff shall augment these records with information from outside providers when necessary.
13. Maintain a manual of health care policies and procedures and treatment guidelines for nurses and medical assistants.
14. Review the jail first aid policies and procedures when requested.
15. Arrange for safe delivery, storage and administration of medications. This shall include making available prescription and non-prescription medication for delivery to inmates. The JHP staff and the Corrections Department share responsibility in providing a medication delivery system.
16. Participate in the orientation of new Corrections Department staff to the JHP and medication administration policies and procedures. Additional in-service education shall be provided to the Corrections Department staff by the JHP staff on issues involving inmate health care as requested. This will include duties associated with the health care liaison position for all corrections sergeants.

17. Arrange for monthly medical peer review, nursing quality assurance audit, medication system audit and controlled drug count.
18. Provide JHP services seven days per week, from 7:00 AM to 9:00 PM, including legal holidays. Provided JHP services on Saturday and Sunday are restricted to the main jail, limited clinic services and medication delivery. Nurse's clinic services for the Work Center are Tuesday through Friday, 4-6 hours a day, on a flexible schedule to accommodate the need. This schedule may be adjusted by mutual agreement between the Corrections Department and the Contractor.
19. Upon request, provide the Corrections Department with a copy of an inmate's medical record to be transferred with the inmate to a receiving institution.
20. Be administratively responsible to the Administrative Physician and the Contractor's designated manager. The nurses are subject to all of the Contractor's personnel procedures. The Contractor shall provide ongoing in-service education and other continuing education to the JHP staff.
21. Arrange for all contract staff to be processed for the Jail and Jail Work Center security clearance prior to regular access to any County Corrections Facility.
22. Arrange the quarterly administrative meetings between the JHP staff, jail staff, chief of corrections, corrections lieutenants, sheriff, physicians, dentists, mental health practitioners, pharmacists and provide documentation of these meetings.
23. Prepare an annual statistical report of services rendered.
24. Assist the Corrections staff in meeting the established standards for Health Services for Jails put forth by the National Commission on Correctional Health Care (NCCHC) in order to maintain the jail's accreditation by the NCCHC.
25. If deemed necessary, utilize some of Juvenile Detention's hours providing that the hours are not needed by Juvenile Detention and that the combined annual maximum compensation is not exceeded. There must also be sufficient funds allocated in the Corrections budget.
26. Provide a Navigator/Care Coordinator position (dependent upon funding – see Compensation page 11, #5) to help in several areas, including but not limited to complex offenders, the Medication Assisted Treatment (MAT) Program and seriously mentally ill offenders and offenders with illness in multiple areas.

II. CORRECTIONS DEPARTMENT STAFF RESPONSIBILITIES:

The Corrections Bureau staff shall:

1. Provide initial health receiving/screening as the inmate is booked into jail and forward this information to the JHP staff for follow up.
2. Determine if an inmate's request for medical attention is of an emergent nature. Arrange for further medical triage or emergency care through the JHP staff or St. Joseph Hospital Emergency Department. Non-emergent request for health care shall be forwarded directly to the JHP staff.
3. Deliver medications per instructions from the jail health care staff or other qualified medical personnel.
4. Provide transportation of inmates and their medical records to outside facilities when requested by a practitioner or the JHP staff.
5. Notify the JHP staff when an inmate with significant health care needs is transferred to another institution. The JHP staff shall prepare a copy of the inmate's medical records, documentation of current medications, and other information that shall facilitate the continuity of health care between institutions. If JHP staff is not on duty, the Corrections Bureau staff shall copy and send these documents.
6. Provide names of inmates who have been incarcerated for more than fourteen (14) days due to health care staff for a health screening exam.
7. Provide timely escort of inmates within the jail to promote the smooth operation of various practitioner clinics.

8. Provide security stand-by for inmates needing additional supervision.
9. Forward copies of reports detailing information that may affect inmate's healthcare to JHP staff.
10. Employ the jail physician and provide oversight and supervision to him/her, who shall supervise the provision of medical services by medical staff.

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EXHIBIT "B"
(COMPENSATION)

1. As consideration for the services provided and described in this agreement, the County agrees to reimburse the Contractor upon submission of an itemized bill for services rendered at the end of each month.
2. The Jail and Work Center will be billed at the rate of \$55.31 per hour for each hour worked by each JHP staff member. The total number of hours worked will not exceed 25,581. The total annual compensation will not exceed \$1,414,885.11.
3. Juvenile Detention will be billed a flat rate per month of \$3,468.00, with an annual maximum compensation of \$41,616.00.
4. The combined maximum annual compensation for the Jail, Work Center and Juvenile Detention will not exceed ONE MILLION, FOUR HUNDRED AND FIFTY SIX THOUSAND, FIVE HUNDRED AND ONE DOLLARS AND ELEVEN CENTS (\$1,456,501.11).
5. NWRC may add a Navigator/Care Coordinator position to the services for the Jail and Work Center PROVIDED sufficient funds are acquired within the 2020 Corrections budget allocation. The Navigator position will work a maximum of 1,986 hours at the rate of \$58.65 per hour for a total maximum annual amount of \$116,479.00. This would be in addition to the combined annual amount for the Jail Work Center and Juvenile Detention listed above.
6. The Contractor shall invoice Whatcom County Jail/Work Center and Juvenile Detention separately as follows:

Whatcom County Sheriff's Office/Corrections Bureau
Attn: Laurie Reid, Jail Administration
311 Grand Avenue
Bellingham, WA 98225

Whatcom County Juvenile Detention
Attn: Kim Burke
311 Grand Avenue
Bellingham, WA 98225

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Exhibit "C"
CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/9/2019

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

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

PRODUCER HUB International Northwest LLC 110 Unity Street Bellingham WA 98225		CONTACT NAME: PHONE (A/C, No, Ext): 360-647-9000 FAX (A/C, No): 360-734-8496 E-MAIL: now.bellinghaminfo@hubinternational.com ADDRESS: now.bellinghaminfo@hubinternational.com	
INSURED Northwest Regional Council 600 Lakeway Dr, Suite 100 Bellingham WA 98225-5236		INSURER(S) AFFORDING COVERAGE INSURER A: American States Insurance Company INSURER B: General Insurance Company of America INSURER C: First National Insurance Company of America INSURER D: INSURER E: INSURER F:	
NORTH27		NAIC # 19704 24732 24724	

COVERAGES

CERTIFICATE NUMBER: 1194361803

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	25CC40490810	10/10/2019	10/10/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
C	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			25CC40490810	10/10/2019	10/10/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			01SU43727910	10/10/2019	10/10/2020	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	25CC40490810	10/10/2019	10/10/2020	PER STATUTE <input checked="" type="checkbox"/> OTH-ER <input type="checkbox"/> Stop Gap E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 3,000,000
B	Professional Liability			HCM7745107J	10/10/2019	10/10/2020	Each Claim Aggregate 1,000,000 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Per policy forms and conditions: Liability Plus Endorsement form CG 76 35 02 07.
Whatcom County, its elected officers and employees are included.

CERTIFICATE HOLDER

CANCELLATION

Whatcom County Sheriff's Office
311 Grand Ave
Bellingham WA 98225

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-591

File ID:	AB2019-591	Version:	1	Status:	Introduced
File Created:	11/07/2019	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:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending the 2020 Whatcom County Budget, request no. 2, in the amount of \$343,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental # 2 requests funding from the General Fund:

1. To appropriate \$4,000 in Council to fund increase in code publishing services
2. To re-appropriate \$20,000 in Council to fund outdoor storage lockers
3. To appropriate \$9,000 in Hearing Examiner to fund contract increase
4. To appropriate \$10,000 in Juvenile to fund Volunteer Guardian Ad Litem program training
5. To appropriate \$300,000 in Prosecuting Attorney to fund LEAD program from grant proceeds

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/19/2019 Council		INTRODUCED	Council Finance and Administrative Services Committee

PROPOSED BY: Executive
INTRODUCTION DATE: 11/19/19

**ORDINANCE NO.
AMENDMENT NO. 2 OF THE 2020 BUDGET**

WHEREAS, the 2019-2020 budget was adopted November 20, 2018; and,
WHEREAS, changing circumstances require modifications to the approved 2019-2020 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 2019-2020
Whatcom County Budget Ordinance #2018-064 is hereby amended by adding the following additional
amounts to the 2020 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Council	24,000	-	24,000
Hearing Examiner	9,000	-	9,000
Juvenile	10,000	-	10,000
Prosecuting Attorney	300,000	(300,000)	-
Total General Fund	343,000	(300,000)	43,000
Total Supplemental	343,000	(300,000)	43,000

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied



Civil Deputy Prosecutor

Jack Louws, County Executive

Date: _____

WHATCOM COUNTY				
Summary of the 2020 Supplemental Budget Ordinance No. 2				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Council	To fund increase in code publishing services.	4,000	-	4,000
Council	To re-appropriate funding for outdoor storage lockers.	20,000	-	20,000
Hearing Examiner	To fund Hearing Examiner contract increase.	9,000	-	9,000
Juvenile	To fund Volunteer Guardian Ad Litem program training.	10,000	-	10,000
Prosecuting Attorney	To fund LEAD program from grant proceeds.	300,000	(300,000)	-
Total General Fund		343,000	(300,000)	43,000
Total Supplemental		343,000	(300,000)	43,000

Supplemental Budget Request

Status: Pending

Council

Suppl ID # 2999

Fund 1

Cost Center 1100

Originator: Cathy Halka

Year 2 2020

Add'l FTE ☐

Priority 1

Name of Request: Code Publishing Services 2020

X

Cathy B Halka

11/1/19

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:

Object	Object Description	Amount Requested
6630.901	Professional Services	\$4,000
Request Total		\$4,000

1a. Description of request:

The County contracts for professional services to maintain the Whatcom County Code online, ensuring conformity with state and federal law. Legal publishing services include design, production, printing, posting and hosting an online code that is searchable as well as updating ordinances and supplements to the Code as needed.

1b. Primary customers:

Whatcom County citizens and the general public are the primary customers. Every department in the County has elements of the code that direct and impact their operations and services.

2. Problem to be solved:

In 2020, there are additional code updates that require an increase in funding for code publishing services, including but not limited to an update to the Shoreline Management Plan and miscellaneous updates to Title 12, 16, 20, 21, and 22. The Council Office is responsible for code publishing but has no control over the number of updates that come from departments within the County. Code publishing services are typically billed (as an industry standard) by the number of pages effected. A slight policy change in the code can for example impact a number of pages and have a high cost. Council staff estimates with planned code updates for 2020, more funding may be needed and are requesting \$4,000 to bring the 2020 budget for code publishing services to \$20,103. Code publishing services must be fully funded in order to maintain compliance with federal law.

3a. Options / Advantages:

Amending the budget to fully fund code publishing costs will allow the County to maintain compliance with federal law.

3b. Cost savings:

Staff can save time by doing a budget amendment now and including the current estimated maximum cost in the contract with the consultant, rather than doing a contract and budget amendment later.

4a. Outcomes:

Code publishing services are provided throughout the year. As ordinances and code amendments are approved by Council, the online code is updated and code supplements are provided.

4b. Measures:

The code is updated and maintained online and in print.

5a. Other Departments/Agencies:

This request impacts all departments operating under or affected by the Whatcom County Code.

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

Supplemental Budget Request

Status: Pending

Council

Supp'l ID # 2999

Fund 1

Cost Center 1100

Originator: Cathy Halka

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Council

Suppl ID # 3000

Fund 1

Cost Center 1100

Originator: Barry Buchanan

Year 2 2020

Add'l FTE ☐

Priority 1

Name of Request: Outdoor Storage Lockers

X

On the Ballalaka

11/1/19

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6610	Contractual Services	\$20,000
	Request Total		\$20,000

1a. Description of request:

Provide outdoor storage lockers for people experiencing homelessness in Whatcom County.

Funding was included in the 2019 budget, and this is a reappropriation of ASR# 2019-5849 to the 2020 budget year. The non-profit is still finalizing agreements with the City of Bellingham after which they will be able to move forward with the use of these funds to purchase outdoor storage lockers for the project.

1b. Primary customers:

People experiencing homelessness in Whatcom County

2. Problem to be solved:

The 2019 Point-In-Time (PIT) Count, an annual snapshot of homelessness in our community, found 700 individuals experiencing homelessness in Whatcom County. It is estimated that one in five of these people have been homeless for more than a year. Those that are fortunate enough to find shelter often do not have access to a safe place to store their belongings. The pilot project sponsored by a community non-profit will install a limited number of storage lockers. The non-profit is still finalizing agreements with the City of Bellingham. This budget item was included in the 2019 budget, and this is a request to roll over the unused funding into the 2020 budget year.

3a. Options / Advantages:

The only current alternative is for people to carry all their belonging in bags or supermarket carts.

Whatcom County agreed to provide one County-owned location in downtown Bellingham for installation of storage lockers as part of a pilot project sponsored by a community non-profit. This request will enhance the pilot project by increasing the number of available lockers and giving the additional homeless individuals the chance to access available services and seek employment without worrying that their personal belongings will be stolen or confiscated.

3b. Cost savings:

A person cannot travel on public transport or apply for a job or seek privately owned accommodations while carrying all their possessions. Enabling people to store their key possessions makes it much easier for people to assist themselves, to escape homelessness, and ultimately reduce their needs for social services. Every year that we prevent a person from being incarcerated or requiring comprehensive social service support saves the community approximately \$40,000.

4a. Outcomes:

It will be much easier for homeless people to help themselves.

4b. Measures:

The results will be measureable through a change in the overall number of homeless people and the number of people that report no longer needing the lockers because they were able to escape

Friday, November 01, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Council

Suppl ID # 3000

Fund 1

Cost Center 1100

Originator: Barry Buchanan

homelessness.

5a. Other Departments/Agencies:

Reducing homelessness will reduce the demand for jail usage, diversion programs, and homeless support services provided by the Health Department.

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

6. Funding Source:

General Fund

Friday, November 01, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Council

Suppl ID # 2997 Fund 1 Cost Center 1600 Originator: Cathy Halka

Year 2 2020

Add'l FTE ☐

Priority 1

Name of Request: Hearing Examiner 2020

X

Cathy Halka

11/1/19

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6630	Professional Services	\$9,000
	Request Total		\$9,000

1a. Description of request:

The County issued an RFP for Hearing Examiner Services, and Michael Bobbink was the sole respondent. Mr. Bobbink has served in this role for the last 24 years. The last increase in compensation he received was a 7.5% increase in 2015. Mr. Bobbink is requesting a 10% increase in compensation, bringing his total compensation to \$97,661.65 annually.

1b. Primary customers:

The Hearing Examiner acts on behalf of the County Council in considering the application of regulatory enactments for major project permits, planned unit developments, development agreements, conditional use permits, appeals from decisions of the shoreline management program, and other appeals and recommendations.

2. Problem to be solved:

The increase in compensation for the hearing examiner is less than the Cost of Living increases County employees received over the last five years. The total compensation requested is in line with salaries of Hearing Examiners in other counties in Washington State.

3a. Options / Advantages:

The option to not fund the increase in salary would potentially leave the County without someone to fulfill the role and duties of the Hearing Officer, which are responsibilities required by Whatcom County Code. The County would have to issue another RFP for Hearing Examiner services in hopes of receiving additional respondents. Since the original RFP resulted in only one respondent, it is unlikely there would be new respondents to a second RFP.

Funding the salary increase is the best option because it allows the County to retain its current provider who has served as Hearing Examiner successfully over the last 24 years. Mr. Bobbink brings a wealth of institutional knowledge and history to his role as Hearing Examiner. The increase brings the Hearing Examiner compensation in line with market rates.

3b. Cost savings:

The County saves a significant amount by contracting out the position of Hearing Examiner. The standard County benefits package costs the County approximately 35% or more of the base salary of an employee, and a contractor such as the Hearing Examiner position is not offered County benefits.

4a. Outcomes:

This contracted position provides Hearing Examiner Services including reviewing applicable ordinances, statutes, and files in preparation for public hearings, presiding over the hearing, conducting field inspections, reviewing appeals, and preparing written recommendations.

4b. Measures:

Success is measured by the completion of tasks assigned to the Hearing Examiner as defined in the

Supplemental Budget Request

Status: Pending

Council

Suppl ID # 2997

Fund 1

Cost Center 1600

Originator: Cathy Halka

Whatcom County Code as well as the conclusion of cases heard before the Hearing Examiner.

5a. Other Departments/Agencies:

This request will impact the County Council office, which is responsible for ensuring Hearing Examiner services are provided in accordance with Whatcom County Code.

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

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Juvenile

Administration

Suppl ID # 2998

Fund 1

Cost Center 1935

Originator: Dave Reynolds

Year 2 2020

Add'l FTE

Priority 1

Name of Request: VGAL Training

X

Department Head Signature (Required on Hard Copy Submission)

11/1/19
Date

Costs:	Object	Object Description	Amount Requested
	6320	Office & Op Supplies	\$1,000
	6630	Professional Services	\$3,000
	6780	Travel-Educ/Training	\$3,000
	7110	Registration/Tuition	\$3,000
	Request Total		\$10,000

1a. Description of request:

Whatcom County Juvenile Court Volunteer Guardian Ad Litem Program has received a grant from the Whatcom Community Foundation. We plan on utilizing these funds to enhance the training of the VGAL staff and over 50 program volunteers.

1b. Primary customers:

Abused and neglected youth subject to dependency actions.

2. Problem to be solved:

Quality ongoing training and professional training for our volunteers has been a challenge. Utilizing these funds to provide up to date and regular training will be of great benefit to the services they provide.

3a. Options / Advantages:

While the grant does not direct how we spend the dollars to improve the program, ongoing training will provide the most impact to the quality of our program.

3b. Cost savings:

N/A

4a. Outcomes:

We anticipate monthly professional training for all volunteers, as well as the opportunity to for other volunteers and program staff to attend state and national trainings to benefit the program.

4b. Measures:

We will track all trainings attended by volunteers as well as training opportunities by VGAL staff and volunteers.

5a. Other Departments/Agencies:

Other departments and/or agencies involved in the dependency arena may be able to participate in sponsored training as well.

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

6. Funding Source:

The VGAL program received a \$10,000 anonymous donation through the Whatcom Community Foundation in October 2019.

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3001

Fund 1

Cost Center 2622

Originator: Vanessa Martin

Year 2 2020

Add'l FTE ☐

Priority 1

Name of Request: LEAD Program

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4331.1683	DOJ Lead Grant	(\$300,000)
	6610	Contractual Services	\$300,000
	Request Total		\$0

1a. Description of request:

In the LEAD program, police officers exercise discretionary authority at point of contact to divert individuals to a community-based, harm-reduction intervention for law violations driven by unmet behavioral health needs. In lieu of the normal criminal justice system cycle -- booking, detention, prosecution, conviction, incarceration -- individuals are instead referred into a trauma-informed intensive case-management program where the individual receives a wide range of support services, often including transitional and permanent housing and/or drug treatment. Prosecutors and police officers work closely with case managers to ensure that all contacts with LEAD participants going forward, including new criminal prosecutions for other offenses, are coordinated with the service plan for the participant to maximize the opportunity to achieve behavioral change.

LEAD holds considerable promise as a way for law enforcement and prosecutors to help communities respond to public order issues stemming from unaddressed public health and human services needs -- addiction, untreated mental illness, homelessness, and extreme poverty -- through a public health framework that reduces reliance on the formal criminal justice system.

1b. Primary customers:

The LEAD program will serve community members who frequently cycle in and out of the criminal justice system for low-level, non-violent offenses such as drug possession.

2. Problem to be solved:

The initiative aims to divert people out of the criminal justice system whose infractions are driven mainly by addiction, mental illness, and poverty and who would be better served by quality social services. The effort would reduce recidivism, lower the number of people in our expensive criminal justice system and improve public safety and our communities' quality of life.

Instead of sending low-level drug offenders to jail, police can refer suspects to LEAD, which provides them with intensive long-term case management and a chance to change their lives. Case managers become their clients' personal advocates, offering legal assistance and helping them access social services like housing, health care and therapy with the goal of getting them to a point where they can live drug-free.

When police come across someone with a nonviolent history who they have reason to arrest, they offer LEAD as an alternative to jail and prosecution. If the person refuses to participate, they are charged with the crime they were caught committing.

LEAD uses a "meet you where you are" approach to provide individuals with the help they actually want,

Monday, November 04, 2019

Rpt: Rpt Suppl Regular

Supplemental Budget Request

Status: Pending

Prosecuting Attorney

Suppl ID # 3001

Fund 1

Cost Center

Originator: Vanessa Martin

which makes this program unique to Whatcom County.

3a. Options / Advantages:

The county recently developed the GRACE (Ground-Level Response And Coordinated Engagement) program, which is a community-based effort to find solutions for individuals who are using crisis services and law enforcement in frequent, yet ineffective ways. The aim is to offer intensive, coordinated services to these "familiar faces" whose needs span beyond any single agency.

The LEAD program will function under the GRACE structure and aims to offer intensive, coordinated services to the "familiar faces" of the criminal justice system.

3b. Cost savings:

Instead of sending low-level drug offenders to jail, police can refer suspects to LEAD, which will have a great impact on our overall incarceration rates, reducing costs, and increasing public safety.

4a. Outcomes:

This is a 3 year grant cycle and at the end of 2020 the outcomes delivered will be a reduction on incarceration rates, reducing criminal justice costs, and increasing public safety.

4b. Measures:

We will know the outcomes have been met by analyzing the data we are required to collect per the U.S. Department of Justice's regulations. Success will be measured by reducing incarceration rates, reducing criminal justice costs, and increasing public safety.

5a. Other Departments/Agencies:

The LEAD program is a collaboration between police, prosecutors, public defenders, political leaders, mental health and drug treatment providers, housing providers and other service agencies, and business and neighborhood leaders -- working together to find new ways to solve problems for individuals who frequently cycle in and out of the criminal justice system under the familiar approach that relies on arrest, prosecution, and incarceration.

All partner agencies are committed to the LEAD program and have dedicated resources to ensure timely implementation and on-going support.

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

6. Funding Source:

DOJ federal grant



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-598

File ID:	AB2019-598	Version:	1	Status:	Agenda Ready
File Created:	11/13/2019	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:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Lydia Place to provide case management and support services to individuals experiencing homelessness, in the amount of \$32,860 for a total amended contract amount of \$213,770

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachments.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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MEMORANDUM

TO: Jack Louws, County Executive
FROM: *ADD* Regina A. Delahunt, Director
RE: Lydia Place – Housing Case Management Contract Amendment #5
DATE: November 5, 2019

Enclosed are two (2) originals of a contract amendment between Whatcom County and Lydia Place for your review and signature.

▪ Background and Purpose

This contract funds the provision of housing case management services in association with the Whatcom Homeless Service Center. The purpose of this contract is to provide case management and supportive services to those individuals experiencing homelessness or who are newly housed, in order to improve housing stability and reduce homelessness in Whatcom County. This amendment renews the contract for an additional year and adds rental assistance funding for Permanent Supportive Housing (PSH) for Chronically Homeless Families with Children and associated requirements from the Washington State Department of Commerce, Consolidated Homeless Grant (CHG).


▪ Funding Amount and Source

Funding for this contract, in an amount not to exceed \$213,770, is provided by local document recording fees and the CHG. These funds will be included in the 2020 budget. Council approval is required as funding exceeds 10% of the approved budget.

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

Encl.



WHATCOM COUNTY CONTRACT INFORMATION SHEET		Whatcom County Contract No. 201611028 – 5	
Originating Department:		85 Health	
Division/Program: (i.e. Dept. Division and Program)		8550 Human Services / 855040 Housing Program	
Contract or Grant Administrator:		Kathleen Roy	
Contractor's / Agency Name:		Lydia Place	
Is this a New Contract? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If not, is this an Amendment or Renewal to an Existing Contract? If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 201611028
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		If No, include WCC:	
Already approved? Council Approved Date:		(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s):		CFDA#:
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, Whatcom County grant contract number(s):		
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):	16-47	Contract Cost Center: 122200
Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>		If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below:			
<input type="checkbox"/> Professional services agreement for certified/licensed professional.			
<input type="checkbox"/> Contract work is for less than \$100,000.		<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	
<input type="checkbox"/> Contract work is for less than 120 days.		<input type="checkbox"/> Work related subcontract less than \$25,000.	
<input type="checkbox"/> Interlocal Agreement (between Governments).		<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 524,030		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.	
This Amendment Amount: \$ 213,770			
Total Amended Amount: \$ 737,800			
Summary of Scope: This contract provides funding for case management services to individuals receiving rental subsidies through the Whatcom Homeless Service Center in order to improve housing stability and reduce homelessness in Whatcom County.			
Term of Contract:	1 Year	Expiration Date:	12/31/2020
Contract Routing:	1. Prepared by:	JT	Date: 08/12/2019
	2. Health Budget Approval	KR	Date: 10/31/2019
	3. Attorney signoff:	RB	Date: 11/01/2019
	4. AS Finance reviewed:	bbennett 	Date: 10/31/2019
	5. IT reviewed (if IT related):		Date:
	6. Contractor signed:		Date:
	7. Submitted to Exec.:		Date:
	8. Council approved (if necessary):		Date:
	9. Executive signed:		Date:
	10. Original to Council:		Date:

WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT AMENDMENT

Whatcom County # 201611028

PARTIES:

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

AMENDMENT NUMBER: 5

CONTRACT PERIODS:

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

AND CONTRACTOR:

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

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

DESCRIPTION OF AMENDMENT:

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

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

APPROVAL AS TO PROGRAM:

Anne Deacon
Anne Deacon, Human Services Manager

11/5/19
Date

DEPARTMENT HEAD APPROVAL:

Regina A. Delahunt
Regina A. Delahunt, Health Department Director

11/6/19
Date

APPROVAL AS TO FORM:

Royce Buckingham
Royce Buckingham, Civil Deputy Prosecuting Attorney

11-6-19
Date

FOR THE CONTRACTOR:

[Signature]
Contractor Signature

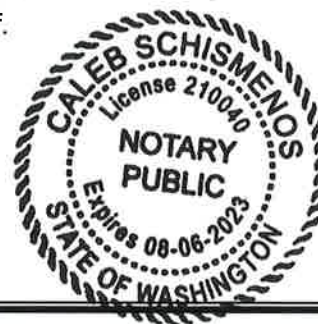
Emily O'Conner, Executive Director
Print Name and Title

11/4/19
Date

STATE OF WASHINGTON)
COUNTY OF WHATCOM)

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

Caleb Schismenos
NOTARY PUBLIC in and for the State of Washington
Residing at 600 E Holly St



My Commission expires: 08-06-2023

FOR WHATCOM COUNTY:

Jack Louws, County Executive

Date

STATE OF WASHINGTON)
COUNTY OF WHATCOM)

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

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

My Commission expires: _____

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

I. Background

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

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

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

II. Definitions

Housing Interest Pool (HIP)	Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
HMIS	Washington's Homeless Management Information Services, a data base.
Permanent Supportive Housing Population	Chronically homeless individuals/households with significant barriers to permanent housing; will receive deep rent subsidies and intensive housing case management. Chronically Homeless Families (CHF) have one head of household that meets the definition of chronic homelessness (as stated in CHG Guidelines), and one or more dependents defined as minor children, disabled dependents, or full time students. Household income may not exceed 50% area median gross income as defined by HUD.
Whatcom Homeless Service Center (WHSC)	WHSC programs provide (1) centralized coordinated system of access (2) targeted prevention assistance to reduce the number of households that become homeless, (3) re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5) data management and tracking information for people receiving homeless housing services in Whatcom County and according to Washington State Department of Commerce HMIS data collection requirements.

III. Statement of Work

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

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

IV. Program Outcomes

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

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

V. Additional Requirements

The contractor will:

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

- b. If the Grantee is still out of compliance after the technical assistance, Commerce may move the Grantee into a probationary period with a second corrective action plan and may reduce the grant total by 20%.
 - c. If the Grantee remains out of compliance after the probation period, Commerce may terminate the grant per the General Terms and Conditions TERMINATION FOR CAUSE.
- 8. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services—including deposits, rental payments, and completed home visits.
- 9. Comply with the following HIP Referral procedure. When Contractor staff believes a referral from the HIP is not a good fit for their program – a situation that should be rare - the following procedure must be followed:
 - a. Contractor will submit a written description of the situation that justifies returning the client to the HIP, and
 - b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HIP case management services coordinator (or designee).
 - c. The course of action mutually agreed to at the case conference will be recorded in writing, constituting a binding agreement.
 - d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.
- 10. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
 - a. Inform clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system
 - b. Inform Clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons.
 - c. Inform Clients/tenants that damages to their unit may result in eviction and loss of the unit in the future for our homeless housing system
 - d. Inform prospective tenants what they need to do to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing
 - e. In scattered site, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide Case managers free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated whenever requested
 - f. Document in each client file that these expectations were communicated to the client/tenant.
- 11. Require professional development training for direct service staff and supervisors.
- 12. Attend Whatcom County Coalition to End Homelessness meetings and sponsored activities.
- 13. Attend meetings and events coordinated by WHSC.

VI. Reporting Requirements

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

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

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

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

Additionally, projects falling under specific intervention types and funded by the Consolidated Homeless Grant (CHG) will be expected to meet or make progress meeting the System Performance Measures and benchmarks as required by the Washington State Department of Commerce. System wide performance measures and benchmarks specific to intervention type (HMIS project type) are provided on the CHG System Performance Measures chart on our website at: <http://whatcomcounty.us/910/Housing-Program>.

Changes to the CHG System wide Performance Measures may be made without contract amendment. In the event of an update, the County will provide email notification with a link to the current chart on the County's website. CHG Grantees must meet or demonstrate progress towards established performance measure targets by meeting the indicated benchmarks. Targeted prevention performance measures are exempted from the 'Consequences of non-compliance' stated above in Section V. (7)(a-c) as per Commerce, wherein 'Grantee' refers to the County being the CHG recipient.

- a. If Commerce determines that a Grantee is failing to comply with the Guidelines, Terms and Conditions, Commerce will notify Grantee that Grantee will receive technical assistance and be required to respond to a corrective action plan to address and remedy the non-compliance.
- b. If the Grantee is still out of compliance after the technical assistance, Commerce may move the Grantee into a probationary period with a second corrective action plan and may reduce the grant total by 20%.
- c. If the Grantee remains out of compliance after the probation period, Commerce may terminate the grant per the General Terms and Conditions TERMINATION FOR CAUSE.

EXHIBIT "B" – Amendment #5
(COMPENSATION)

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

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

Cost Description	Documents Required Each Invoice	2020 Budget
Personnel-Case Managers, Housing Program Supervisor	Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period	\$126,012
Program specific Supplies and Postage	GL detail	\$868
Personnel – Case Managers, Housing Program Supervisor specific to services for chronically homeless families with children	Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period	\$30,000
Rental Assistance (CHG funds) specific to chronically homeless families with children	Expanded GL Report for the period plus documentation including client ID, payee, and amount of payment. For Rental Assistance – itemize payee for-profit/non-profit status	\$21,560
Program specific Occupancy costs	GL detail	\$5,400
Mileage	Mileage log to include: name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, the federal reimbursement rate (per www.gsa.gov), and a brief description of the purpose of travel.	\$2,700
Program specific utilities & phone	GL detail	\$5,546
Direct Service Staff Training	Ground transportation, coach airfare, and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, and a brief description of purpose. Receipts for registration fees or other documentation of professional training expenses. Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Receipts for meals are not required.	\$500
Professional Services	GL detail	\$1,750
	SUBTOTAL	\$194,336
Indirect Costs*	10%	\$19,434
	TOTAL	\$213,770

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

III. Invoicing

- The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above.

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

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

3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

4. Invoices must include the following statement, with an authorized signature and date:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.

"Exhibit E"
(SPECIAL TERMS AND CONDITIONS FOR COMMERCE GRANTS)

The funds allocated for services performed under this contract are Washington State Department of Commerce funds. The terms included in this agreement and any additional agreements herein are a result of the grant funding requirements. Commerce and the State of Washington are not liable for claims or damages arising from the Contractor's performance of this subgrant.

1. ACCESS TO DATA

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

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

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

3. ACKNOWLEDGEMENT OF FEDERAL FUNDING

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

"This project was supported by the Emergency Solutions Grant awarded by the Department of Housing and Urban Development (HUD). Points of view in this document are those of the author and do not necessarily represent the official position or policies of the HUD. Grant funds are administered by the Housing Assistance Unit in the Community Services and Housing Division, Washington State Department of Commerce."

4. AUDIT

A. General Requirements

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

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

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

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

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

B. State Funds Requirements

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

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

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

C. Federal Funds Requirements-

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

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

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

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

5. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

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

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

- B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantee shall take all necessary steps to assure that confidential information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. CONFLICT OF INTEREST

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

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

7. COPYRIGHT PROVISIONS

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

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

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

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with

prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

8. LAWS

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

Washington State Laws and Regulations

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

9. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

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

10. POLITICAL ACTIVITIES

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

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

11. PUBLICITY

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

12. RECORDS MAINTENANCE

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

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

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

13. REGISTRATION WITH DEPARTMENT OF REVENUE

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

14. RIGHT OF INSPECTION

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

15. INDEMNIFICATION

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

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

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

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



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-599

File ID:	AB2019-599	Version:	1	Status:	Agenda Ready
File Created:	11/14/2019	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Bellingham Whatcom County Tourism, in the amount of \$290,000, for the purposes of tourism marketing and operations

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached memorandum

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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CONTRACT FOR SERVICES
Bellingham Whatcom County Tourism

Bellingham Whatcom County Tourism, 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 8,
 Exhibit A (Scope of Work), p. 9,
 Exhibit B (Compensation), p. 10,
 Exhibit C (Certificate of Insurance), p. 11,
 Exhibit D (E-Verify Declaration), p. 12,
 Exhibit E (Sample Survey), p. 13.

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 January, 2020, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2020.

The general purpose or objective of this Agreement is to: support Bellingham Whatcom County Tourism marketing and operations costs associated with tourism efforts, 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 \$ 290,000. 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.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 20 ____.

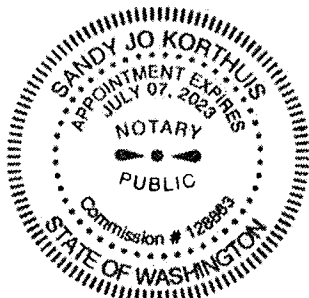
CONTRACTOR:

Bellingham Whatcom County Tourism


 Sandy Ward, President

STATE OF WASHINGTON)
) ss.
 COUNTY OF Whatcom)


On this 12th day of Nov, 20 19, before me personally appeared Sandy Ward to me known to be the President of Bellingham Whatcom County Tourism and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.




 NOTARY PUBLIC in and for the State of Washington, residing at
Bellingham. My commission expires 7/7/2023.

WHATCOM COUNTY:

Approved as to form:

 11/5/19
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____

Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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:

BELLINGHAM WHATCOM COUNTY TOURISM

Sandy Ward, President

Address:
904 Potter Street
Bellingham, WA 98229

Mailing Address:
same

Contact Name: Sandy Ward

Contact Phone: 360-671-3990

Contact FAX: N/A

Contact Email: Sandy@bellingham.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: Not Applicable

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: Not Applicable

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.

31.2 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: Not Applicable

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 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement commercial general liability insurance with the following minimums:

Property Damage - \$500,000.00 per occurrence;

General Liability & Bodily injury - \$1,000,000.00 per occurrence.

A Certificate of insurance that also identifies the County as an additional insured is attached hereto as Exhibit "C". This insurance shall be considered as primary and non-contributory and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

34.2 Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

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

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

35.2 Non-Discrimination in Client Services:

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

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest: Not Applicable

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:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor's Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions: Not Applicable

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. 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: Not Applicable

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: Not Applicable

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)

The Bellingham Whatcom County Tourism will use tourism promotion funds provided by Whatcom County to provide year-round services to promote tourism in Whatcom County and support the implementation of the Cultural Heritage Tourism Strategic Plan and other projects that promote countywide tourism. This includes staffing and operating information centers that serve and/or interact with more than one million existing and potential visitors each year, referrals to local agencies and businesses plus the publication and distribution of community information in an effort to promote tourism.

Maximum consideration for this agreement is \$290,000.

Allowable expenses under RCW 67.28.210, tourism promotion includes:

Daily tourism operations:

- Rent
- Utilities
- Salaries
- Payroll taxes
- Health insurance
- Telephone service
- Printing of promotional materials
- Postage costs

Facilities will be open to the public seven days a week, 9:00 a.m. to 5:00 p.m. (except holidays). Advertising, promotional brochures and marketing of special events and festivals designed to attract visitors and encourage tourist expansion.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Festival shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and major accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$290,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

GENERAL LEDGER DETAIL:

**Salaries
Payroll taxes
Health insurance**

RECIEPTS:

**Rent
Utilities
Telephone service
Printing of promotional materials
Postage costs**

Bellingham Whatcom County Tourism will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices. Payment will be made no more than one time per month.

Bellingham Whatcom County Tourism will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

Non Profit Insurance Program

CERTIFICATE OF COVERAGE

Issue Date: 05/16/2018

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

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


PRODUCER	COMPANIES AFFORDING COVERAGE
Clear Risk Solutions 451 Diamond Drive Ephrata, WA 98823	GENERAL LIABILITY American Alternative Insurance Corporation, et al. AUTOMOBILE LIABILITY American Alternative Insurance Corporation, et al.
INSURED	PROPERTY American Alternative Insurance Corporation, et al. MISCELLANEOUS PROFESSIONAL LIABILITY Princeton Excess and Surplus Lines Insurance Company
Bellingham Visitors & Convention Bureau DBA Bellingham Whatcom County Tourism 904 Potter Street Bellingham, WA 98229	
COVERAGES	

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	DESCRIPTION	LIMITS
GENERAL LIABILITY					
COMMERCIAL GENERAL LIABILITY OCCURRENCE FORM INCLUDES STOP GAP	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	PER OCCURRENCE PER MEMBER AGGREGATE PRODUCT-COMP/OP PERSONAL & ADV. INJURY ANNUAL POOL AGGREGATE	\$5,000,000 \$10,000,000 \$5,000,000 \$5,000,000 \$50,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
AUTOMOBILE LIABILITY					
ANY AUTO (LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	COMBINED SINGLE LIMIT ANNUAL POOL AGGREGATE	\$5,000,000 NONE
PROPERTY					
	N1-A2-RL-0000013-09	06/01/2018	06/01/2020	ALL RISK PER OCC EXCL EQ & FL EARTHQUAKE PER OCC FLOOD PER OCC ANNUAL POOL AGGREGATE	\$75,000,000 EXCLUDED EXCLUDED NONE
(PROPERTY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
MISCELLANEOUS PROFESSIONAL LIABILITY					
	N1-A3-RL-0000060-09	06/01/2018	06/01/2020	PER CLAIM ANNUAL POOL AGGREGATE	EXCLUDED \$40,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)					
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS					
Regarding contracted services provided. Whatcom County is named as Additional Insured regarding these contracted services only and is subject to policy terms, conditions, and exclusions. Additional Insured endorsement is attached. Waiver of Subrogation is attached. NPIP retained limit is primary and non-contributory.					

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

CERTIFICATE HOLDER	AUTHORIZED REPRESENTATIVE
Attn: Executive's Office Whatcom County 311 Grand Avenue, Suite 108 Bellingham, WA 98225	

E-Verify Declaration ATTACHMENT "D"

Firm Name: BELLINGHAM WHATCOM COUNTY TOURISM

Proposal/Bid/Invitation/Solicitation No. _____

The undersigned declares, under penalty of perjury under the laws of Washington that:

1. The above named firm is currently enrolled in and using the E-Verify system for all employees hired on or after the contract inception date and will continue to use the E-Verify system for so long as work is being performed on the above named project.
2. I certify that I am duly authorized to sign this declaration on behalf of the above named bidder/proposer.
3. I acknowledge that Whatcom County requires a copy of the Memorandum of Understanding between the contractor listed above and the Department of Homeland Security certifying enrollment in the E-Verify program. Failure to provide the required Memorandum of Understanding could lead to suspension of this contract.

DATE: 7-15-2019

SIGNATURE: 

PRINTED NAME: SANDRA L. WARD

EXHIBIT 'E'
(Sample Survey)

Sample Survey Questions for Attendees/Participants of Attractions, Festivals and Events

1. What is your zip code?
2. How did you hear about this event? (i.e. newspaper, radio, internet, magazine, word of mouth, other)
3. How many nights away from home, if any, are you spending in Whatcom County?
4. Will you stay overnight? If so, where?

_____ Hotel or motel

_____ Campground

_____ Friend/Relative

_____ Not staying overnight
5. How much money have you spent in Whatcom County as a visitor including any food, gas lodging, tickets, etc.?

_____ \$0-\$25

_____ \$25-\$50

_____ \$50-\$100

_____ \$100-\$200

_____ \$200 or over

Sample Survey Plan:

Your Survey Plan should answer the following questions regarding your survey methodology:

1. How do you intend to distribute your survey to your event participants?
2. What incentives or methods will you use to ensure you obtain sufficient data on your event participants?
3. Who will be responsible for collecting your data?
4. Any other details regarding your survey methods or alternative methods you may use obtain relevant data regarding your event participants.



MEMORANDUM

TO: Jack Louws, County Executive
FROM: Tawni Helms, Administrative Coordinator
RE: Bellingham Whatcom County Tourism
DATE: November 12, 2019

Enclosed are two (2) originals of a Contract for Services between Whatcom County and Bellingham Whatcom County Tourism for your review and signature.

▪ **Background and Purpose**

Contractor has received Convention Center funding for the purposes of marketing and operations for Bellingham Whatcom County Tourism.

▪ **Funding Amount and Source**

Funding in the amount of \$290,000 will come from the Convention Center Fund as recommended by the Lodging Tax Advisory Committee and approved by Whatcom County Council on November 6, 2019.

▪ **Differences from Previous Contract**

No substantive changes are made to this agreement.

Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.

Encl.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-602

File ID:	AB2019-602	Version:	1	Status:	Agenda Ready
File Created:	11/19/2019	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:	12/03/2019	Enactment #:			

Primary Contact Email: debergso@co.whatcom.wa.us <<mailto:debergso@co.whatcom.wa.us>>

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Status Electrical Automation Systems to provide Security Electronics and DVMS System Support & Maintenance, in the amount of \$43,314.53

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

WCC 3.08.100A requires Council approval to request authorization for the County Executive to enter into a contract between Whatcom County and Status Electrical Automation Systems to provide Security Electronics and DVMS System Support & Maintenance in the amount of \$43,314.53. One response was received under Whatcom County RFQ 19-75

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**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: Jack Louws, County Executive

FROM: Rob Ney, Project & Operations Manager

RE: Contract – Security Electronics and DVMS System Support & Maintenance Agreement

DATE: November 21, 2019

Enclosed for your review and signature are two (2) originals of the Agreement between Whatcom County and Status Electrical Corporation for the purpose of Security Electronics and DVMS System Support & Maintenance Agreement for the Whatcom County Main Jail; Jail Work Center, Juvenile Facilities and Facilities Management; 311 Grand Avenue, Public Safety Building, 2030 Division Street and 3720 Williamson Way; Bellingham, Whatcom County, WA.

▪ Background and Purpose

This contract is to provide Technical support, On-site maintenance and phone support for the Security Electronics and DVMS for the Juvenile Detention Facility, Main Jail, Jail Work Center and Facilities Management.

The Jail, Jail Work center and Juvenile detention facilities include the Intercom systems, PLC's and PC for Door and Lock controls, Plus the Genetec Camera systems that are interfaced with the main Security Controls that include Servers, Network switches, KVM and audio servers.

The Facilities CCTV Security system includes all Cameras, Servers, Work Stations, Network Switches and Network Support, Plus support for the Genetec Camera system software.

▪ **Funding Amount and Source**

This project is approved by three regular budgets. The Main Jail and Jail Work Center will be funded from the Jail Fund. Juvenile Detention and Facilities Management will be funded by Facilities regular budget. Any shortfall in the budget will result in budget transfers from other accounts within the regular budget.

Funding needed for this contract is \$43,314.53, including tax.

▪ **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.

Originating Department:	Administrative Services								
Division/Program: (i.e. Dept. Division and Program)	Facilities Management 505020								
Contract or Grant Administrator:	Rob Ney								
Contractor's / Agency Name:	Status Electrical Automation Systems								
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? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): RFP/Q 19-75 Contract Cost Center: Various									
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: <table border="0"> <tr> <td><input type="checkbox"/> Professional services agreement for certified/licensed professional.</td> <td><input type="checkbox"/> Contract for Commercial off the shelf items (COTS).</td> </tr> <tr> <td><input checked="" type="checkbox"/> Contract work is for less than \$100,000.</td> <td><input type="checkbox"/> Work related subcontract less than \$25,000.</td> </tr> <tr> <td><input type="checkbox"/> Contract work is for less than 120 days.</td> <td><input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.</td> </tr> <tr> <td><input type="checkbox"/> Interlocal Agreement (between Governments).</td> <td></td> </tr> </table>		<input type="checkbox"/> Professional services agreement for certified/licensed professional.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).	<input checked="" type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Work related subcontract less than \$25,000.	<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	<input type="checkbox"/> Interlocal Agreement (between Governments).	
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<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.								
<input type="checkbox"/> Interlocal Agreement (between Governments).									
Contract Amount:(sum of original contract amount and any prior amendments): \$ 43,314.53 This Amendment Amount: \$ _____ Total Amended Amount: \$ 43,314.53	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:									
This contract service agreement between Whatcom County and Status Electrical Corporation is for the Security Electronics and DVMS System Support and Maintenance in the Main Jail, Jail Work Center, Juvenile and Facilities Management.									
Term of Contract:	Expiration Date: 12/31/2020								

Contract Routing:	1. Prepared by: Dee Ebergson	Date: 11/16/19
	2. Attorney signoff: <i>Cleen</i>	Date: 11/19/19
	3. AS Finance reviewed: <i>blenn</i>	Date: 11/20/19
	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 AGREEMENT
Security Electronics and DVMS System Support
& Maintenance Agreement

Status Electrical Corporation, 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 10,
 Exhibit A (Scope of Work), pp. 11 - 15,
 Exhibit B (Compensation), pp. 16 - 19,
 Exhibit C (Proposal), pp. 20 - 32.

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 ten days following the issuance of Notice to Proceed, and subject to authorized adjustments, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2020.

The general purpose or objective of this Agreement is for the: Security Electronics Support and Maintenance Proposals for the Whatcom County Main Jail, Work Release Center, Juvenile and Facilities Management as more fully and definitively described in attached Exhibits. The language of Exhibit C controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement shall not exceed \$43,314.53. **The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.**

The Contractor agrees to keep records of all financial matters pertaining to this agreement in accordance with generally accepted accounting principles. The financial records shall be made available to representatives of the County or the Washington State Auditor's Office for audit, at such reasonable times and places as the County shall designate.

Whatcom County's contract administrator for this agreement is the Administrative Services - Facilities Project & Operations Manager, 3720 Williamson Way, Bellingham WA 98226. All work will be scheduled through the Administrative Services Facilities Manager or his/her designee.

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.

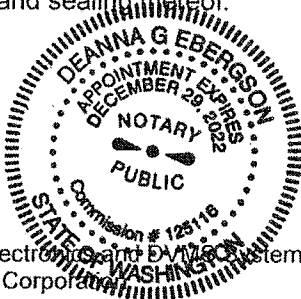
IN WITNESS WHEREOF, the parties have executed this Agreement this 18 day of Nov, 2019.

CONTRACTOR:

[Signature]
 David Kovacs, Division Manager

PROVINCE OF British Columbia
 CITY OF Langley) ss.


On this 18 day of NOV, 2019, before me personally appeared to me David Kovacs, known to be the Division Manager of Status Electrical Corporation and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



[Signature]
Deanna G. Ebergson
 Print Name
 NOTARY PUBLIC in the State of Washington, residing at
Bham. My commission expires 12-29-2022.

WHATCOM COUNTY:

Approved as to form:

 11/19/19
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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.

Print Name

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

CONTRACTOR INFORMATION:

Status Electrical Corporation

Address:

PO Box 69 Ste A
2669 Deacon Street
Abbotsford BC V2T 6Z4

Mailing Address:

PO Box 69 Ste A
2669 Deacon Street
Abbotsford BC V2T 6Z4

Contact Name:

David Kovacs, Division Manager

Contact Phone:

(604) 859-1892

Contact Email:

dkovacs@statusautomation.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 in the quote documents, during the agreement period. The County will furnish no material, labor, or facilities, 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 prior to the commencement or continuation of work. 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 at a time, 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 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 state and federal requirements, as applicable, 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 on a Schedule C, 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:

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.

Ownership. Any and all data, 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 Agreement 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 Agreement 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 Agreement and all public records associated with this Agreement shall be available from the County 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. 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.

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 Proof of Insurance:

The Contractor shall, at its own expense, obtain and continuously maintain the following insurance coverage. All insurers providing such insurance shall have a 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 Agreement or the coverage limits provided or available under the policies maintained by the Contractor without regard to this Agreement, whichever are greater:

Property Damage per occurrence - \$500,000

General Liability & Property Damage for bodily injury per occurrence - \$1,000,000

Aggregate - \$2,000,000

Business Comprehensive Automobile Liability - \$1,000,000 Minimum, per occurrence
\$2,000,000 Minimum, Annual Aggregate

Coverage shall include liability for any and all owned, non-owned and hired motor vehicles. Coverage may be satisfied by way of endorsement to the General Commercial Liability policy.

A Certificate of Insurance and endorsements must identify Whatcom County, employees, officers, agents, officials and volunteers as additional insureds. Contractor's subcontractors must provide a Certificate of Insurance and endorsements naming Whatcom County, employees, officers, agents, officials and volunteers as additional insureds. The Contractor's Insurance shall be considered primary and shall waive all rights of subrogation. The County insurance shall be noncontributory. The Insurance policy shall provide coverage on an occurrence basis. The County must be notified immediately of any cancellation of the policy or change in insurer carrier. Contractor must submit certificate of insurance and endorsements as described above to the County prior to the commencement of any work on this project. The County must be notified immediately of any cancellation of the policy or change in insurer carrier. Contractor shall immediately provide a copy to the County of the certificate and endorsements when there is a change in insurance carrier or when their policy is renewed so that the County maintains a current copy of the Contractor's policy with the required certificate and endorsements.

34.2 Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:

- A. 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 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) are directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement; 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. 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. The foregoing indemnification obligations of the Contractor are a material inducement to County to enter into this Agreement, are reflected in the Contractor's compensation, and have been mutually negotiated by the parties.

Participation by County – No Waiver. 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.

Survival of Contractor's Indemnity Obligations. The Contractor agrees all Contractors' indemnity obligations shall survive the completion, expiration or termination of this Agreement.

Indemnity by Subcontractors. In the event the Contractor enters into subcontracts to the extent allowed under this Agreement, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County.

- B. In any and all claims against the County or its agents by any employee of the Contractor, the indemnification obligation of subparagraph A above shall not be limited in any way by any limitation on the amount or type of damages, compensation benefits payable by or for the Contractor under workers' or workmen's compensation, benefit, or disability laws (including, but not limited to the Industrial Insurance laws, Title 51 of the Revised Code of Washington). The Contractor expressly waives any immunity the Contractor might have had under such laws, and, by agreeing to enter this Contract, acknowledges that foregoing waiver has been mutually negotiated by the parties.
- C. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this paragraph, whether or not suit was instituted.
- D. 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.
- E. The Contractor agrees all Contractor indemnity obligations shall survive the completion, expiration or termination of this Agreement.

34.4 Performance Bond:

The Contractor shall furnish a duly executed Performance Bond upon a form furnished by the County within ten calendar days following receipt of the Notice of Intent to Award. The bond shall be executed by a surety or sureties who are acceptable to the County and the penal amount of the bond shall be in an amount equal to the Contract Sum and conditioned upon the faithful performance of the Contract by the Contractor within the Contract Time.

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

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, 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, sexual orientation 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.

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
Whatcom County AS-Facilities Management
3720 Williamson Way
Bellingham WA 98226**

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

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 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 Agreement 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 Agreement 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 its own costs of arbitration including attorneys' fees. The arbitrator's fee and any administrative expenses imposed by the arbitrator shall be shared equally by the parties. 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.

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.

EXHIBIT "A"
(SCOPE OF WORK)

The Security Electronics components as described following are configured and programmed to provide for a total "Integrated" solution – managing the security at the **Whatcom County Main Jail**:

- DVMS System
 - DVMS
 - Status Automation SSE 5.0 Genetec SDK
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys
- HMI System
 - Fixed HMI (Touchscreen) System
 - Servers
 - Viewers
 - Software
 - GE Cimplicity
 - Status Automation SSE 5.0
 - SMA SSE 5.0
- Intercom System
 - Intercom and Paging
 - DXL DCC and DCE Appliances
 - Master Intercom
 - Software
 - Software status Automation SSE 5.0
 - SMA SSE 5.0
- PLC System
 - Door Control and Alarming
 - Omron PLC
 - Software
 - Status Automation SSE 5.0

Proposal Outline – Scope

All systems as noted above:

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics and preventative maintenance
 - Attend site, review equipment condition, wear, heating/filtration issues
 - Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures
 - Max 4 hours on site
- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support

- Arxys Storage
 - Arxys support with online tech support and advanced replacement parts
- HMI (Fixed Touchscreen) System
 - Provide SSE 5.0 support
 - SA SSE 5.0 support
 - SA SSE 5.0 updates and service packs
 - Provide Tech support on Cimplicity HMI Base package including SIM updates if deemed necessary
- Intercom System
 - Provide SSE 5.0 support and updates
 - Provide DXL Firmware and Software service packs and updates
- PLC System
 - Provide SSE 5.0 support and updates+
 - Provide Omron troubleshooting and support

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

The Security Electronics components as described following are configured and programmed to provide for a total "Integrated" solution – managing the security at the **Whatcom County Work Release Center**:

- DVMS System
 - DVMS
 - Status Automation SSE 5.0 Pelco SDK
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys
- HMI System
 - Fixed HMI (Touchscreen) System
 - Servers
 - Viewers
 - Software
 - GE Cimplicity
 - Status Automation SSE 5.0
 - SMA SSE 5.0
- Intercom System
 - Intercom and Paging
 - DXL DCC and DCE Appliances
 - Master Intercom
 - Software
 - Software Status Automation SSE 5.0
 - SMA SSE 5.0
- PLC System
 - Door Control and Alarming
 - Modicon PLC
 - Software
 - Status Automation SSE 5.0

Proposal Outline – Scope

All systems as noted above:

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics and preventative maintenance
 - Attend site, review equipment condition, wear, heating/filtration issues
 - Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures
 - Max 2 hours on site
- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support
- Arxys Support
 - Arxys Support with online tech support and advance replacement of parts
- HMI (Fixed Touchscreen) System
 - Provide SSE 5.0 support
 - SA SSE 5.0 support
 - SA SSE 5.0 updates and service packs
 - Provide Tech support on Cimplicity HMI Base package including SIM updates if deemed necessary
- Intercom System
 - Provide SSE 5.0 support and updates
 - Provide DXL Firmware and Software service packs and updates
- PLC System
 - Provide SSE 5.0 support and updates+
 - Provide Omron troubleshooting and support

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

The Security Electronics components as described following are configured and programmed to provide for a total “Integrated” solution – managing the security at the **Whatcom County Juvenile Center**:

- DVMS System
 - DVMS
 - Status Automation SSE 5.0 Genetec SDK
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys

- HMI System
 - Fixed HMI (Touchscreen) System
 - Servers
 - Viewers
 - Software
 - GE Cimplicity
 - Status Automation SSE 5.0
 - SMA SSE 5.0
- Intercom System
 - Intercom and Paging
 - DXL DCC and DCE Appliances
 - Master Intercom
 - Software
 - Software Status Automation SSE 5.0
 - SMA SSE 5.0
- PLC System
 - Door Control and Alarming
 - Omron PLC
 - Software
 - Status Automation SSE 5.0

Proposal Outline – Scope

All systems as noted above:

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics and preventative maintenance
 - Attend site, review equipment condition, wear, heating/filtration issues
 - Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures
 - Max 2 hours on site
- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support
- Arxys Storage
 - Arxys Support with online tech support and advance replacement of parts
- HMI (Fixed Touchscreen) System
 - Provide SSE 5.0 support
 - SA SSE 5.0 support
 - SA SSE 5.0 updates and service packs
 - Provide Tech support on Cimplicity HMI Base package including SIM updates if deemed necessary
- Intercom System
 - Provide SSE 5.0 support and updates
 - Provide DXL Firmware and Software service packs and updates

- PLC System
 - Provide SSE 5.0 support and updates+
 - Provide Omron troubleshooting and support

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

The Security Electronics components as described following are configured and programmed to provide for a total "Integrated" solution – managing the security at the **Whatcom County Facilities Management Site**:

- DVMS System
 - DVMS
 - Genetec Security Desk
 - Dell Directory and Archiving Server
 - Dell Extended Warranty
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys
 - Applicable to 2018 Unit Only

Proposal Outline – Scope

All systems as noted above:

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics review
 - Attend site, review equipment condition, wear, heating/filtration issues
 - Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures
 - Max 1 hours on site
- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support
- Arxys Storage
 - Arxys Support with online tech support and advance replacement of parts

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

EXHIBIT "B"
(COMPENSATION)

The Contract Number shall be included on all billings and correspondence.

The maximum consideration of for this agreement is \$43,314.53.

Invoices detailing and services must be submitted to:
Whatcom County Facilities Management Office
3720 Williamson Way
Bellingham WA 98225

Whatcom County Jail			
Tech Support:			
	All systems 5/8 online/phone support – On call stand by		
	Maximum 4 hours support per month, 2 hour (min) increments, additional time billable at hourly rates		
		Basic Support:	\$5,880.00
	On site diagnostic review		
	Performed 1x yearly		
		On site review:	\$1,960.00
HMI Software (SSE 5.0) SMA			
	Provides for updates and service packs during the year		
	HMI, Cimplicity, Drivers		
	Phone Support		
	HMI System and off site backups for recovery		
		1 year SSE SMA Cost:	\$2,500.00
DVMS Storage Array			
	1 year Array Extended Warranty Gold Support (Jun – Dec 2020)	Gold Support:	\$1,100.00
DVMS Software SMA			
	Provides for updates and service packs during the year		
	Genetec Tech support phone line		
	Installation of SP's if deemed necessary		
	Status Phone support		
	DVMS System off site backups for recovery		
		1 year SSE SMA Cost:	\$7,360.00
		Subtotal Main Jail	\$18,800.00

Whatcom County Work Release Center		
Tech Support:		
All systems 5/8 online/phone support – On call stand by		
Maximum 2 hours support per month, 1 hour (min) increments, additional time billable at hourly rates		
	Basic Support:	\$2,160.00
On site diagnostic review		
Performed 1x yearly		
	On site review:	\$1,320.00
HMI Software (SSE 5.0) SMA		
Provides for updates and service packs during the year		
HMI, Cimplicity, Drivers		
HMI System off site backups for recovery		
Phone Support		
	1 year SSE SMA Cost:	\$1,000.00
DVMS Storage Array		
1 year Array Extended Warranty Gold Support (Jun – Dec 2020)		
	Gold Support:	\$1,100.00
DVMS Software SMA		
Provides for updates and service packs during the year		
Genetec Tech support phone line		
Installation of SP's if deemed necessary		
Status Phone support		
DVMS System off site backups for recovery		
		\$2,430.00
Genetec SMA Sep 2020 – Sep 2021		
		\$1,822.00
	Subtotal Work Release	\$9,832.00

Whatcom County Juvenile			
Tech Support:			
	All systems 5/8 online/phone support – On call stand by		
	Maximum 4 hours support per month, 2 hour (min) increments, additional time billable at hourly rates		
		Basic Support:	\$2,640.00
	On site diagnostic review		
	Performed 1x yearly		
		On site review:	\$1,080.00
HMI Software (SSE 5.0) SMA			
	Provides for updates and service packs during the year		
	HMI, Cimplicity, Drivers		
	Phone Support		
	HMI System off site backups for recovery		
		1 year SSE SMA Cost:	\$2,200.00
DVMS Storage Array			
	1 year Array Extended Warranty Gold Support (Jun – Dec 2020)	Gold Support:	\$1,100.00
DVMS Software SMA			
	Provides for updates and service packs during the year		
	Genetec Tech support phone line		
	Installation of SP's if deemed necessary		
	Status Phone support		
	DVMS System off site backups for recovery		
		1 year SSE SMA Cost:	\$1,900.00
		Subtotal Juvenile	\$8,920.00

Whatcom County Facilities Management			
Tech Support:			
	All systems 5/8 online/phone support – On call stand by		
	Maximum 4 hours support per month, 2 hour (min) increments, additional time billable at hourly rates		
		Basic Support:	\$1,200.00
	On site diagnostic review		
	Performed 1x yearly		
		On site review:	\$250.00
DVMS Storage Array			
	1 year Array Extended Warranty Gold Support	Gold Support:	\$850.00
DVMS Software SMA			
	Provides for updates and service packs during the year		
	Genetec Tech support phone line		
	Installation of SP's if deemed necessary		
	Status Phone support		
	Genetec SMA prepaid to 2022		
		1 year SSE SMA Cost:	\$0.00
		Subtotal Facilities Mgmt	\$2,300.00

Whatcom County Main Jail Subtotal	\$18,800.00	
Whatcom County Work Release Center Subtotal	\$ 9,832.00	
Whatcom County Juvenile Subtotal	\$ 8,920.00	
Whatcom County Facilities Management Subtotal	\$ 2,300.00	
TOTAL OF AGREEMENT	\$39,852.00	not including applicable tax

Variable Costs:

Additional On Site Support
Provide onsite support as requested by client \$150.00/hr.
Overtime rates outside normal working hours apply at 1.5 base rate.

Corporate Office
2669 Deacon Street
Abbotsford BC V2T 6L4
(604) 859-1892

Aldergrove Automation Office
100 - 3193 262nd Street
Aldergrove BC V1W 2Z6
(604) 859-8470

Seattle District Office
14900 Interurban South, Suite 271
Seattle WA 98168
(877) 859-1892

Whatcom County

**Main Jail
Juvenile
Work Release**

Security Electronics and DVMS System Support and Maintenance Proposal 2020

Jan 1 – Dec 31

Rev.0

The Security Electronics components as described following are configured and programmed to provide for a total "Integrated" solution – managing the security at the

Whatcom County Main Jail:

- DVMS System
 - DVMS
 - Status Automation SSE 5.0 Genetec SDK
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys
- HMI System
 - Fixed HMI (Touchscreen) System
 - Servers
 - Viewers
 - Software
 - GE Cimplicity
 - Status Automation SSE 5.0
 - SMA SSE 5.0
- Intercom System
 - Intercom and Paging
 - DXL DCC and DCE Appliances
 - Master Intercom
 - Software
 - Software status Automation SSE 5.0
 - SMA SSE 5.0
- PLC System
 - Door Control and Alarming
 - Omron PLC
 - Software
 - Status Automation SSE 5.0

Proposal Outline – Scope

All systems as noted above;

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics and preventative maintenance
 - Attend site, review equipment condition, wear, heating/filtration issues

- Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures
 - Max 4 hours on site
- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support
- Arxys Storage
 - Arxys Support with online tech support and advance replacement of parts
- HMI (Fixed Touchscreen) System
 - Provide SSE 5.0 support
 - SA SSE 5.0 support
 - SA SSE 5.0 updates and service packs
 - Provide Tech support on Cimplicity HMI Base package including SIM updates if deemed necessary
- Intercom System
 - Provide SSE 5.0 support and updates
 - Provide DXL Firmware and Software service packs and updates
- PLC System
 - Provide SSE 5.0 support and updates+
 - Provide Omron troubleshooting and support

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

The Security Electronics components as described following are configured and programmed to provide for a total "Integrated" solution – managing the security at the **Whatcom County Work Release Center**:

- DVMS System
 - DVMS
 - Status Automation SSE 5.0 Genetec SDK
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys
- HMI System
 - Fixed HMI (Touchscreen) System
 - Servers
 - Viewers
 - Software
 - GE Cimplicity
 - Status Automation SSE 5.0
 - SMA SSE 5.0
- Intercom System
 - Intercom and Paging
 - DXL DCC and DCE Appliances
 - Master Intercom
 - Software
 - Software status Automation SSE 5.0
 - SMA SSE 5.0
- PLC System
 - Door Control and Alarming
 - Modicon PLC
 - Software
 - Status Automation SSE 5.0

Proposal Outline – Scope

All systems as noted above:

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics and preventative maintenance
 - Attend site, review equipment condition, wear, heating/filtration issues
 - Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures
 - Max 2 hours on site

- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support
- Arxys Storage
 - Arxys Support with online tech support and advance replacement of parts
- HMI (Fixed Touchscreen) System
 - Provide SSE 5.0 support
 - SA SSE 5.0 support
 - SA SSE 5.0 updates and service packs
 - Provide Tech support on Cimplicity HMI Base package including SIM updates if deemed necessary
- Intercom System
 - Provide SSE 5.0 support and updates
 - Provide DXL Firmware and Software service packs and updates
- PLC System
 - Provide SSE 5.0 support and updates+
 - Provide Omron troubleshooting and support

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

The Security Electronics components as described following are configured and programmed to provide for a total "Integrated" solution – managing the security at the **Whatcom County Juvenile Center**:

- DVMS System
 - DVMS
 - Status Automation SSE 5.0 Genetec SDK
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys
- HMI System
 - Fixed HMI (Touchscreen) System
 - Servers
 - Viewers
 - Software
 - GE Cimplicity
 - Status Automation SSE 5.0
 - SMA SSE 5.0
- Intercom System
 - Intercom and Paging
 - DXL DCC and DCE Appliances
 - Master Intercom
 - Software
 - Software status Automation SSE 5.0
 - SMA SSE 5.0
- PLC System
 - Door Control and Alarming
 - Omron PLC
 - Software
 - Status Automation SSE 5.0

Proposal Outline – Scope

All systems as noted above:

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics and preventative maintenance
 - Attend site, review equipment condition, wear, heating/filtration issues
 - Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures

- Max 2 hours on site
- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support
- Arxys Storage
 - Arxys Support with online tech support and advance replacement of parts
- HMI (Fixed Touchscreen) System
 - Provide SSE 5.0 support
 - SA SSE 5.0 support
 - SA SSE 5.0 updates and service packs
 - Provide Tech support on Cimplicity HMI Base package including SIM updates if deemed necessary
- Intercom System
 - Provide SSE 5.0 support and updates
 - Provide DXL Firmware and Software service packs and updates
- PLC System
 - Provide SSE 5.0 support and updates+
 - Provide Omron troubleshooting and support

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

Costs Summary

Whatcom County Jail			
Tech Support:			
	All systems 5/8 online/phone support – On call stand by		
	Maximum 4 hours support per month, 2 hour (min) increments, additional time billable at hourly rates		
		Basic Support:	\$5,880.00
	On site diagnostic review		
	Performed 1x yearly		
		on site review:	\$1,960.00
HMI Software (SSE 5.0) SMA			
	Provides for updates and service packs during the year		
	HMI, Cimplicity, Drivers		
	Phone Support		
	HMI System off site backups for recovery		
		1 year SSE SMA Cost:	\$2,500.00
DVMS Storage Array			
	1 year Array Extended Warranty Gold Support (June – Dec. 2020)	Gold Support:	\$1,100.00
DVMS Software SMA			
	Provides for updates and service packs during the year		
	Genetec Tech support phone line		
	Installation of SP's if deemed necessary		
	Status Phone support		
	DVMS System off site backups for recovery		
		1 year SSE SMA Cost:	\$7,360.00
		Subtotal Main Jail	\$18,800.00

Whatcom County Work Release Center			
Tech Support:			
	All systems 5/8 online/phone support – On call stand by		
	Maximum 2 hours support per month, 1 hour (min) increments, additional time billable at hourly rates		
		Basic Support:	\$2,160.00
	On site diagnostic review		
	Performed 1x yearly		
		On site review:	\$1,320.00
HMI Software (SSE 5.0) SMA			
	Provides for updates and service packs during the year		
	HMI, Cimplicity, Drivers		
	HMI System off site backups for recovery		
	Phone Support	1 year SSE SMA Cost:	\$1,000.00

DVMS Storage Array			
	1 year Array Extended Warranty Gold Support (June – Dec. 2020)	Gold Support:	\$1,100.00
DVMS Software SMA			
	Provides for updates and service packs during the year		
	Genetec Tech support phone line		
	Installation of SP's if deemed necessary		
	Status Phone support		
	DVMS System off site backups for recovery		
			\$2,430.00
	Genetec SMA Sept 2020 - Sept 2021		\$1,822.00
		Subtotal Work Release	\$9,832.00

Whatcom County Juvenile			
Tech Support:			
	All systems 5/8 online/phone support – On call stand by		
	Maximum 4 hours support per month, 2 hour (min) increments, additional time billable at hourly rates		
		Basic Support:	\$2,640.00
	On site diagnostic review		
	Performed 1x yearly		
		On site review:	\$1,080.00
HMI Software (SSE 5.0) SMA			
	Provides for updates and service packs during the year		
	HMI, Cimplicity, Drivers		
	Phone Support		
	HMI System off site backups for recovery		
		1 year SSE SMA Cost:	\$2,200.00
DVMS Storage Array			
	1 year Array Extended Warranty Gold Support (June – Dec. 2020)	Gold Support:	\$1,100.00
DVMS Software SMA			
	Provides for updates and service packs during the year		
	Genetec Tech support phone line		
	Installation of SP's if deemed necessary		
	Status Phone support		
	DVMS System off site backups for recovery		
		1 year SSE SMA Cost:	\$1,900.00
		Subtotal	\$8,920.00

Whatcom County Main Jail Subtotal	\$18,800.00
Whatcom County Work Release Center Subtotal	\$ 9,832.00
Whatcom County Juvenile Subtotal	\$ 8,920.00
TOTAL OF AGREEMENT	\$37,552.00

Variable Costs:

Additional On Site Support

Provide onsite support as requested by client
Overtime rates outside normal working hours apply at 1.5 base rate

\$150.00/hr.

Corporate Office
2669 Deacon Street
Abbotsford BC V2T 6L4
(604) 859-1892

Aldergrove Automation Office
100 - 3193 262nd Street
Aldergrove BC V1W 2Z6
(604) 859-8470

Seattle District Office
14900 Interurban South, Suite 271
Seattle WA 98168
(877) 859-1892

Whatcom County

Facilities Management

DVMS System Support 2020
Jan 1 – Dec 31
Rev.0

Whatcom County Facilities Management Site:

- DVMS System
 - DVMS
 - Genetec Security Desk
 - Dell Directory and Archiving Server
 - Dell Extended warranty
 - Arxys Storage Array
 - Extended support and advance parts replacement by Arxys
 - Applicable to 2018 Unit only

Proposal Outline – Scope

- Provide for phone technical support and diagnostics – to assist site personal in troubleshooting/repair
 - Telephone/Email
 - Provide 5/8 technical support (hotline)
 - Response time:
 - Initial contact – under 2 hours
 - Phone tech support for action – under 4 hours
 - Maximum 4 hours support per month, 2 hour (min) increments, and additional time billable at hourly rates
- Provide once yearly on site diagnostics review
 - Attend site, review equipment condition, wear, heating/filtration issues
 - Advise of corrective actions necessary
 - Check window logs, equipment logs, advise of any noticeable pending failures
 - Max 1 hours on site
- DVMS System
 - Provide Support of Genetec Integration drivers
 - Provide Genetec SMA and SMA support
- Arxys Storage
 - Arxys Support with online tech support and advance replacement of parts

Emergency Call out/requested site attendance (as approved)

- On Site call out support
 - Provide 24/7 emergency call out support
 - Emergency
 - In the event of an incident that causes the system to need immediate emergency repairs and the cause cannot be patched or repaired on line.
 - Anticipated response time is 6 hours HMI/PCL specialty support if critical

Costs Summary

Whatcom County Facilities Management			
Tech Support:			
	All systems 5/8 online/phone support – On call stand by		
	Maximum 4 hours support per month, 2 hour (min) increments, additional time billable at hourly rates		
	On site diagnostic review	Basic Support:	\$1,200.00
	Performed 1x yearly		
		on site review:	\$250.00
DVMS Storage Array			
	1 year Array Extended Warranty Gold Support	Gold Support:	\$850.00
DVMS Software SMA			
	Provides for updates and service packs during the year		
	Genetec Tech support phone line		
	Installation of SP's if deemed necessary		
	Status Phone support		
	Genetec SMA prepaid to 2022		
		1 year SSE SMA Cost:	\$0.00
		Subtotal Main Jail	\$ 2,300.00

Variable Costs:

Additional On Site Support

Provide onsite support as requested by client

Overtime rates outside normal working hours apply at 1.5 base rate

\$150.00/hr.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-613

File ID:	AB2019-613	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	NKallunk@co.whatcom.wa.us		
Department:	Human Resources Division	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a Collective Bargaining Agreement between Whatcom County and General Teamsters' Local Union 231 Corrections Deputies and Sergeants for the period January 1, 2019 through December 31, 2020

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Please refer to Staff Memo for background and more information

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**WHATCOM COUNTY
ADMINISTRATIVE SERVICES**



HUMAN RESOURCES
County Courthouse
311 Grand Avenue, Suite #107
Bellingham, WA 98225-4038
(360) 676-6802
hr@co.whatcom.wa.us

Karen Sterling Goens
Manager

MEMO TO: Councilmembers Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Satpal Sidhu

CC: Jack Louws, County Executive

FROM: Nan Kallunki, HR Associate Manager

DATE: November 20, 2019

SUBJECT: Teamsters Local 231 – Corrections Bargaining Agreement 2019-2020

The County and Union bargaining teams started meeting in October of 2018 to negotiate a successor agreement to the Teamsters Collective Bargaining Agreement representing Corrections Bureau employees expiring December 31, 2018. Twelve bargaining sessions were followed by four sessions facilitated by a mediator assigned by PERC (Public Employment Relations Commission). Both bargaining teams worked diligently through this process and reached a mediated settlement agreement October 24, 2019. The proposal was ratified by the bargaining unit November 14, 2019. The management bargaining team (myself, Dan Swedlow, Doug Chadwick, and Melissa Keeley) recommend Council approval.

The successor collective bargaining agreement represents 68 employees in the Sheriff's Office Bureau of Corrections and includes Corrections Sergeants and Corrections Deputies. The agreement would be effective January 1, 2019 through December 31, 2020.

While this was a very long process, we are pleased to have reached an agreement within budget authority.

Below is a summary of the significant changes included in the new agreement:

Contract Terms	Agreement
DURATION	January 1, 2019 through December 31, 2020
COMPENSATION	January 2019 – January 2%; July 1% [retroactive to January] January 2020 – January 2.15% July 1.0% Increased longevity pay within the longevity steps by steps by .002%.
NON-WAGE REIMBURSEMENTS	Added the new specialty positions of NW Transport Assigned, Crisis Response Team (CRT) and Crisis Negotiator. Premium pay for specialty positions is 3.12% of step 9 for Sergeants, and 2.6% of step 5 for Deputies. In 2021, employees are allowed premium pay for up to two special assignments.

Contract Terms	Agreement
HEALTH AND WELFARE	<p>Medical coverage is provided through the Washington Teamsters Health & Welfare Trust.</p> <p>Plan year 2019 County will contribute \$1,232.50 per employee per month.</p> <p>Plan year 2020, County will contribute up to \$1,271.00 per employee per month.</p> <p>Plan year 2021, County will contribute up to \$1,334 or actual cost, whichever is less.</p>
WORK SCHEDULE	Adopted a trial procedure for bidding shifts between the Work Center and the Main Jail. This allows employees to move between facilities.
UNION SECURITY AND RECOGNITION	No longer a condition of employment to join union or pay union dues.
AUTHORIZATION FOR INITIATION FEES AND DUES	<p>Employees may revoke union membership and payment of union dues.</p> <p>County provides union representatives reasonable access to meet with new hires during work time for 30 minutes.</p>
SICK LEAVE	<p>Multiple changes to many sections to comply with the New Paid Sick</p> <ul style="list-style-type: none"> • Verification of Absence • Notification to Supervisor • Paternity Leave – Removed 40 hour restriction. • Compassionate Leave Sharing replaced by Leave Sharing. Employees can donate up to 24 hours of sick leave and 24 hours of vacation to employees eligible to receive donations.
GENERAL CONDITIONS	References to “Lead Deputy” removed; procedure to qualify as “Acting Sergeant” clarified.
VACATION	Up to 40 hours of unused vacation in excess of 240 hours that cannot be used by January 7 because of operational needs may be cashed out upon request.
NUMBER OF MEMBERS	68

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No. _____

Originating Department: Human Resources	Administrative Services
Division/Program: (i.e. Dept. Division and Program)	Human Resources (HR)
Contract or Grant Administrator:	Nanette Kallunki, HR Associate Manager
Contractor's / Agency Name:	Collective Bargaining Agreement between Whatcom County and Teamsters Local 231 – Corrections Deputies and Sergeants
Is this a New Contract? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input checked="" 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: _____ (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: _____	
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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"/> 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): \$ _____ This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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, professional services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies or equipment included approved in the budget. 4. 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: 2019 – 2020 Collective Bargaining Agreement between Whatcom County and General Teamsters Local Union No. 231 – Corrections Deputies and Sergeants	
Term of Contract: Two Years	Expiration Date: December 31, 2020

Contract Routing:	1. Prepared by: <u>Nan Kallunki</u> <i>MSK</i>	Date: <u>11/20/19</u>
	2. Attorney signoff: _____	Date: <u>11/20/19</u>
	3. AS Finance reviewed: <i>bbennett</i>	Date: <u>11/20/19</u>
	4. IT reviewed (if IT related): <u>N/A</u>	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: _____

**COLLECTIVE BARGAINING
AGREEMENT**

By and Between

WHATCOM COUNTY, WASHINGTON

AND

**GENERAL TEAMSTERS' LOCAL UNION NO. 231
CORRECTIONS DEPUTIES & SERGEANTS
BARGAINING UNIT**

JANUARY 1, 2019 - DECEMBER 31, 2020

Adopted December 3, 2019

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**AGREEMENT
By and Between
WHATCOM COUNTY, WASHINGTON**

**AND
GENERAL TEAMSTERS' LOCAL UNION NO. 231
CORRECTIONS DEPUTIES & SERGEANTS BARGAINING UNIT**

January 1, 2019 – December 31, 2020

THIS AGREEMENT, MADE AND ENTERED INTO THIS 3rd day of December, 2019 by and between WHATCOM COUNTY, WASHINGTON, hereinafter referred to as the County, and GENERAL TEAMSTERS' LOCAL UNION NO. 231, affiliated with the International Brotherhood of Teamsters, hereinafter referred to as the Union.

GENERAL PURPOSES

The County and the Union do hereby reach agreement for the purpose of enhancing the employer-employee relationship and to promote service to the public and the general efficiency, morale and security in the Sheriff's Office.

ARTICLE 1 - UNION RECOGNITION AND SECURITY

1.01 Exclusions. The County recognizes the Union as the sole and exclusive representative for the purpose of collective bargaining for the positions of the Sheriff's Office listed in the attached Addendum A. Excluded from the collective bargaining unit are all other employees of the Sheriff's Office and full-time temporary help employed for periods of up to four (4) months in a calendar year. Deputies working not more than sixty-nine (69) hours per calendar month are also excluded.

1.02 Non-Discrimination Clause. No Deputy shall be discharged, suspended or discriminated against for upholding Union principles and any deputy working under instruction of the Union or who serves on a committee may do so without losing their position for such activity. There shall be no discrimination against any individual deputy of the County or member of the labor organization with whom the County has a bona fide collective bargaining agreement with respect to the hire, tenure, compensation or other terms and conditions of employment because of Union membership or as required by law, except where such constitutes a bona fide occupational qualification.

1.03 New Hire Notice to Union. The County shall notify the Union biweekly of new hires. Notification will be in writing and include the employee's name, address, date of hire, classification, range, step, and work location.

1.04 Bargaining Unit Work. Members of the bargaining unit shall perform all work of the bargaining unit, provided that Sheriff's Office unrepresented employees may perform bargaining unit work on occasion.

1.04a Volunteers. The use of properly trained volunteers is not prohibited by this Agreement so long as bargaining unit deputies are not supplanted. The Union may review the volunteer program regarding compliance with the foregoing and should a dispute develop, it shall be subject to Article 20 (Grievance Procedure) for resolution.

1.05 Authorized Representatives. All collective bargaining with respect to wages, hours and other working conditions of employment shall be conducted by authorized representatives of the Union and the County. It is recognized between the parties that this Agreement covers the Corrections Deputies of the Sheriff's Office for wages, working hours, schedules, benefits, and general working conditions only.

1.06 Civil Service Rules. Except where matters are covered by the express provisions of this Agreement, bargaining unit employees are subject to the rules of the Whatcom County Civil Service Commission. Any alleged violation of contractual provisions, which may also be covered by Civil Service Rules, may be adjusted either through the Civil Service appeals process or through the grievance procedure of this Agreement; provided, the filing of a Civil Service appeal, either before or after the filing of a grievance, shall constitute an election of remedies and a waiver of the employee's right to pursue the grievance or the Union's right to request the County to arbitrate the grievance. Nothing in this section shall be construed as a waiver of any right the Union may have to require the County to engage in collective bargaining on any mandatory subject of bargaining.

1.06a Promotional Exams. Matters pertaining to promotional exams are covered by the Civil Service Rules and Regulations.

ARTICLE 2 – DISCIPLINE/INTERNAL INVESTIGATIONS

2.01 Types of Discipline. Discipline is defined to include verbal reprimand, written reprimand, disciplinary transfers, suspension, demotion (loss of rank) and termination.

2.02 Discharge or Suspension. No deputy will be discharged or suspended except for just cause.

2.02a Probationary Employees. The provisions of this article shall not apply to newly hired employees serving a probationary period. Probationary employees may be disciplined or discharged without any recourse under this Agreement.

2.03 Progressive Discipline. Discipline shall be progressive in nature for similar or substantially similar violations. In some instances, based upon the nature of the offense, discipline need not be progressive. Discipline shall not be used for purposes of progressive discipline after the maximum period as set out in the chart below.

Type of Discipline	Maximum Period
Verbal Reprimand (Recorded to the employee's file)	2 years and no reoccurrence of similar misconduct

Written Reprimand	3 years and no reoccurrence of similar misconduct
Suspension (5 days or under), Disciplinary Transfer	5 years and no reoccurrence of similar misconduct
Suspension (over 5 days) or Demotion	7 years and no reoccurrence of similar misconduct

2.03a Records Removal. Pursuant to the chart above, records of discipline removed from the employee's Sheriff's Office personnel file shall be maintained in the Office of Professional Standards and shall not be divulged or released except as required by law or upon authorization from the Prosecuting Attorney.

2.04 Supervisor Notes. Supervisor notes and log entries in and of themselves are not considered discipline.

2.05 Counseling. Counseling shall not be considered discipline.

2.06 Performance Evaluations. A performance evaluation shall not be considered discipline.

2.06a Disputes. An employee who receives a written performance evaluation with an overall rating below "meets job requirements" may write rebuttals or responses to their performance evaluations but may not grieve them.

2.07 Investigative Procedures. Employees whose conduct may be subject to discipline shall be afforded, at a minimum, the rights established by these procedures. This section shall not apply to any routine, supervisory contact with an employee for the purpose of counseling, instruction, training or delivering a performance evaluation.

2.07a Due Process. Employees shall be afforded due process of law, which includes the right to be informed in writing (using Addendum C) of the specifically alleged acts of misconduct and alleged policy violations within fifteen (15) calendar days from the date that a supervisor who is at a level outside the bargaining unit was made aware of the facts or circumstances that could lead to discipline of an employee. Employees shall be afforded the opportunity to respond to such charges.

2.07b Constitutional Rights or Privileges. When the investigation reveals the possibility of prosecution for a criminal offense, the employee charged with or suspected of committing a criminal act shall be afforded the same constitutional rights, privileges or guarantees enjoyed by any person. This section shall not deprive the County of the right to pursue the investigation administratively under section 2.07 (Investigative Procedure).

2.07c Interview. The interview of any employee during the course of an investigation that could lead to disciplinary action as defined in section 2.01 (Types of Discipline) shall be conducted under the following conditions.

2.07c(1) Interview Advisement. Interviews for employees subject to investigation shall be at a reasonable hour, preferably at a time when the employee is on duty, or during the normal waking hours for the employee, with at least two (2) hours' notice. Upon request, the employee will be granted a twenty-four (24) hour delay, unless the exigency of the investigation requires otherwise prior to the commencement of any interview pursuant to section 2.07 (Investigative Procedure). The employee shall be provided Notice using Addendum D which includes the following:

You are about to be questioned as part of an administrative investigation being conducted by the Whatcom County Sheriff's Office. You are hereby ordered to fully answer the questions that are put to you that relate to information you possess and/or your conduct and/or job performance, and to cooperate with this investigation. You are required to answer questions relating to the performance of your official duties or fitness for duties. Your failure to answer truthfully and cooperate with this investigation can be the subject of disciplinary action in and of itself, including dismissal. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be used or introduced into evidence in a criminal proceeding.

2.07c(2) Length of Interview. An interview session shall be for a reasonable period, taking into consideration the gravity and complexity of the issue being investigated.

2.07c(3) Conduct. The employee being interviewed and the interviewer shall not be subjected to verbal abuse.

2.07c(4) No Inducements Allowed. No promise of reward shall be made as an inducement to answer any questions.

2.07c(5) Recordings. Employees shall be given reasonable notice that he/she will be interviewed as part of a Class I or Class II Administrative Investigation and they shall be informed whether or not the interview will be audio recorded. Audio recordings may be transcribed should either the County or Union request such a transcription with the cost of the transcription borne by the requesting party. The subject or witness employee shall have the opportunity to review the transcript, if transcription is requested or, if not transcribed, listen to the recording of their Interview by appointment with the Sheriff or designee. The audio recording shall be available for review by the Union or subject/witness employee for a reasonable time after all issues of the investigation have been resolved. The recording of Administrative Interviews shall not be a matter of "due process" and is ministerial in nature with no penalty for an inadvertent failure of the audio recorder attributable to any party or loss of audio recordings or recordings that didn't work, etc.

2.07c(5)i Recording Permission Not Required. The investigator does not need to obtain permission from an employee at the time of the interview to audio record and/or otherwise record the Class I or Class II interview but must advise the employee that the interview is being recorded. The County and the Union agree that the Advice of Administrative Interview attached to this Agreement (Addendum D) shall be provided to the subject or witness

employees in all Administrative Interviews.

2.07c(5)ii Class II Investigation Interviews. Class II investigations are generally not audio recorded but will be audio recorded at the request of either party. In a Class II interview should one party object to the use of an audio recording then a transcript shall be made and be the only official record. Class II transcription expenses shall be at the expense of the requesting party.

2.07c(5)iii Recording Device. There shall be only one audio recording device used at the interview and all audio recordings shall be the sole responsibility of the County.

2.07c(5)iv Non-employee Witnesses. To the extent possible, the County will record non-employee witness interviews.

2.07c(5)v Union Representation. Any employee is entitled to Union representation in an interview at the employee's request.

2.07d Length of Investigation and Access to Investigatory File. Disciplinary investigations, including the review and approval of the investigative report(s) by the Sheriff, shall not exceed ninety (90) calendar days. The County shall endeavor to complete the investigation prior to the expiration of ninety (90) days, however, the County reserves the right to extend the investigation timeline in section 2.07d(1) (Extension of Timeline).

Within the ninety (90) calendar day time frame:

1. Notification of investigation shall be made to the employee within fifteen (15) calendar days as outlined in section 2.07a (Due Process).
2. Upon the determination by the Sheriff that the investigation is satisfactorily complete, the employee will be notified in writing of:
 - a. Any intent to impose discipline and discipline contemplated;
 - b. If discipline is to be imposed, the date and time when a pre-disciplinary hearing will be held;
 - c. The Sheriff reserves the right to modify the initial determination as to the extent of discipline contemplated after a pre-disciplinary hearing.

2.07d(1) Extension of Timeline. The length of an investigation may be extended where reasonably necessary by notice to and mutual agreement of the Union. The Union may not unreasonably withhold their agreement to extend the investigatory timeline. A request for extension must include the reason for the request and a reasonable number of days which does not prohibit the County from a reasonable request for additional extensions. Request for extensions shall not apply to notification of the investigation (section 2.07a – Due Process).

2.07d(2) Suspension of Timeline. If an employee is investigated for suspicion of committing a criminal act, the Sheriff may suspend the investigative timeline upon notification of the Union of the criminal investigation. The investigatory timeline may be

suspended until a determination is made by the prosecuting authority on the underlying allegations. If the employee is subjected to criminal prosecution, the investigative timeline may be suspended until adjudication of the allegations is completed. When the investigation is recommenced, the timeline shall start at the same point it was suspended.

2.07e Determination of Discipline. Any discipline to be taken as a result of the investigation shall be announced in writing within fifteen (15) calendar days after completion of the investigation, a copy of which will be served upon the Union.

2.07f Media Access. Without their express consent, employees under investigation shall not be subjected to visits by the press or other news media, nor shall the home address or photograph of the employee be given to the press or other news media unless ordered by the Courts or required by law.

2.07g Access to Investigatory File. When an investigation is concluded by the Sheriff, and where discipline is contemplated by the Sheriff, the employee shall be afforded the opportunity to read the investigatory file, the conclusions reached, and any recommendations made, before official action is taken by the Sheriff. The Union shall be afforded an opportunity to review and copy the file. Upon notice to the Union, the County may withhold from the employee information from, and the identity of, confidential informants and other witnesses which the County does not intend to rely; however such information shall be made available upon request of the Union for review on the same basis as if a public record request would be satisfied at the conclusion of the investigation. If there is discipline issued, and the parties disagree as to the exculpatory nature of the evidence, it will be presented *in camera* through the grievance process to the Arbitrator.

2.08 Personnel File. Employee's personnel file(s) shall be open for review by the employee provided that employees shall not have the right to review psychological evaluations, polygraph results, supervisor's notes prepared for the purpose of preparing employee's evaluations, medical records, pre-appointment interview forms or applicant background investigation documents. Employees shall be provided a copy of any material not excluded above that is placed in their personnel file at the time of submission. Employees must acknowledge receipt by signing for their copy. Employees may submit a written response, rebuttal or explanation to be included with any submission. All material, once submitted, remains a part of the permanent personnel file. The personnel file shall be considered the official record of an employee's service. Employees shall be provided a copy of all material in their personnel file, upon request and except as noted above, shall have the right to attach statements in rebuttal or explanation.

2.09 Advance Notice of Public Disclosure Request. The County shall provide the employee at least seventy-two (72) hours (three business days) advance notice prior to releasing any personnel record information (including internal investigation files) to be provided through the Sheriff's Office in response to a Public Disclosure request, discovery request, or subpoena duces tecum unless specifically mandated by law.

ARTICLE 3 - WORK SCHEDULE

3.01 Shifts. Standardized shifts shall be established by the Sheriff on an eight- or twelve-hour basis. For eight-hour shifts, all time worked over the eight (8) hours in any one (1) shift or over forty (40) hours in any one (1) work week shall be paid for at the rate of time and one-half the regular rate of pay. For twelve-hour shifts, overtime shall be as herein provided below.

3.01a Alternative Shift Schedules. Shift schedules may be modified by mutual agreement between the County and the Union. Other workweeks, including four (4), 10-hour days, in rotation may be utilized. In those instances, all time worked over the scheduled shift in any one (1) shift or over forty (40) hours in any one (1) work week shall be paid for at the rate of time and one-half the regular rate of pay, except for 12-hour shifts. Provided, however; the County may propose alternative schedules during the term of this agreement. The Sheriff's Office may make an emergency change to an established shift upon notice to the Union. In the event the Sheriff determines it is not practical to safely or efficiently provide services on an alternative shift schedule, the Sheriff may elect to revert to a 5-day/8-hour schedule as circumstances require.

3.01b Work Week. The work week for Fair Labor Standards Act purposes is established as beginning 12:00 a.m. Sunday through 11:59 p.m. the following Saturday.

3.01c Swing Shift Premium. Swing shift premium was eliminated as a separate compensation item in 2007 and was added to the base wage where it shall be increased automatically as future wage increases occur. The Parties agree for comparability purposes, this collective bargaining agreement provides such premium to employees as an element of wages.

3.01d 12-Hour Shift. Deputies employed on a 12-hour shift schedule shall have work hours counted according to the 7(k) exemption under the Fair Labor Standards Act for the purpose of determining when overtime compensation is due. An employee must have in excess of 171 straight-time **worked** hours in a twenty-eight (28) day work cycle in order to receive overtime pay unless overtime is otherwise specifically required by section 3.04e (Mandatory Overtime). All overtime requires appropriate authorization.

3.01e Work Breaks. Deputies are employed in activities that may preclude the observance of routine meal and/or break periods. It is agreed that statutory meal and break requirements shall be satisfied by deputy observance of meal and breaks as their assignments permit or as assigned during any fully compensated work period. Employees will be allowed one meal break of thirty minutes and break periods of no more than fifteen minutes with two break periods during an 8-hour shift and three break periods during a 12-hour shift.

3.02 Staffing Imperatives. The Parties recognize there are staffing requirements necessitated by staffing imperatives (i.e.: the nature of Jail operations) which must be addressed efficiently and where individual skills, abilities and/or qualifications of employees must supersede employee choice of assignment by seniority. Where an assignment necessitates a bona-fide occupational skill, ability or qualification, it is agreed the process shall

be that within the group of employees with the required skills, abilities or qualifications, senior employees will be offered the assignment and junior employees required to assume the assignment when there are insufficient senior employees accepting such assignments.

3.02a Shift Bidding. Consistent with section 3.02 (Staffing Imperatives), the following procedure shall apply:

1. **Rules.** Rules regarding the bidding process will be established by mutual agreement between the County and the Union no later than May 31st of each year.
2. **Bid Timing/Facility Choice.** By July 10 of each year a shift bid schedule for adult correctional facilities shall be posted (including electronic bulletin boards and/or email). Deputies shall have the right to bid facility and shift by seniority for the following calendar year. Deputies shall make every effort to place their bid in twenty-four (24) hours, but in no case more than forty-eight (48) hours.
3. **Shift Bid.** The making of a shift bid is defined as the bidding deputy placing his/her name on the shift bid sheet provided. Once the deputy's name is on the bid sheet, he/she cannot change the bid, provided no one shall be skipped unless they have been personally notified by the shift or administrative sergeant it is their turn to bid.

Absent During Bidding. Deputies who know, or reasonably should know, that they will be absent when it is their turn to bid shall make a reasonable effort to be available. Upon timely request, an updated bid shall be emailed to the requesting deputy. If unavailable, a deputy may leave their bid preferences in writing with the appropriate sergeant.

Skipped Deputies. If any deputy is skipped, the bid will continue to subsequent deputies until the skipped deputy notifies the shift or administrative sergeant of his/her bid; which shall be limited to then available shifts, without bumping.

4. **Bid Limits.** A shift bid period shall be defined as being of three (3) months duration. Corrections deputies shall not bid the same shift more than two (2) times consecutively.
5. **Vacation Bid.** The first vacation bid shall be at the same time as shift bidding pursuant to section 5.03 (Vacation Bidding).
6. **Revised Schedule.** In the event subsequent bids become necessary because of a change to the schedule by the Sheriff's Office, the Sheriff's Office shall afford not less than thirty (30) days for deputies to bid on a revised schedule.
7. **Temporary Assignment.** The parties agree that deputies may be temporarily assigned to another shift to maintain appropriate staffing, facilitate training or for monitoring of performance.
8. **Return from Temporary Assignment.** Consistent with section 3.02, deputies being pulled or assigned (off bid) to another facility to maintain appropriate staffing shall have the option to return to the deputy's original bid facility or assignment. The deputy being ordered in will replace the deputy that was pulled or assigned off bid; thus allowing the affected deputy to return to their original bid shift or assignment.

9. Sergeants. Corrections Sergeants shall rotate shifts among themselves.

3.02b Vacant Bid. Any newly created or vacant bid shall be posted for seven (7) calendar days for bid by seniority among the deputies within that shift. If no one within the shift bids the newly created or vacant bid, it will then be offered to deputies holding a floater assignment. Once the new or vacant bid has been filled, any resulting bid vacancy may be filled by decision of the Chief of Corrections or non-bargaining unit designee.

3.02c Probationary Deputies. Probationers may be assigned shifts of at least a week's duration by the administration and may not bid for shifts until the completion of their probation period. The County will make a good-faith effort to give probationary deputies thirty (30) days' notice of work schedule after completion of their FTO period, but the probationary employee may be assigned to a different work schedule as business needs dictate. Normally, probationary deputies will not be assigned Friday-Saturday or Saturday-Sunday as their days off, except when replacing an absent deputy.

3.02d Shift Exchanges. Shift exchanges are voluntary on the affected deputy's part. Deputies wishing to exchange a shift must complete the appropriate form and obtain appropriate authorization. Failure to show up for a shift exchange will result in revocation of the privilege to exchange shifts for up to one year and the time is required to be made up as staffing dictates. Shift trades cannot cause an adverse impact with unreasonably extended work hours. It is understood by both parties that per the FLSA, no overtime liability will be incurred by the County when deputies voluntarily exchange shifts. Probationary deputies are not allowed to exchange shifts except with prior approval of his/her supervisor. Such shift exchanges shall not result in a deputy working the same shift for more than two (2) consecutive three (3) month periods.

3.02e Shift Change – Overtime compensation shall not be paid when two shifts are worked in one twenty-four (24)-hour period due to a shift change.

3.03 Overtime Definitions. Overtime and various categories/expectations of overtime are defined as follows:

- **Overtime** – shall be paid at the rate of time and one-half of a deputy's regular straight-time hourly rate of pay in fifteen minute increments determined, on 7 ½ minutes worked.
- **Hold-over** – is authorized overtime as an extension (holdover) of a shift for the completion of an assignment, meeting coverage or related tasks that could not be completed during the normal course of work or due to a delay in relief. Except in case of emergency, 12-hour shift deputies will not be held over more than four (4) hours.
- **Order in** – is a type of mandatory overtime, including off-duty court appearances when a deputy is required to work when he/she would regularly be scheduled off-duty and does not include holdover.
- **Voluntary Overtime** – is overtime worked by mutual agreement or as provided in section 3.04a (Overtime Selection List).

- **Overtime Authorization** – All overtime must be authorized in advance consistent with Sheriff's Office and/or County policy.

3.03a Minimum Overtime Between Shifts. Deputies shall be guaranteed two (2) hours pay at the overtime rate when called back or ordered in between shifts.

3.03b Hold-Over Overtime. Hold-over is generally completed in two (2) hours or less. If work extends beyond two (2) hours, the deputy will be paid the actual hours on duty at the overtime rate and the time will be considered an Order in for the purposes of "Order-In" rotation tracking.

3.03c Minimum Overtime on Regular Days Off. Deputies shall be guaranteed four (4) hours pay at the overtime rate when ordered in or working voluntary overtime. If work extends beyond four (4) hours, the deputy will be paid the actual hours on duty at the overtime rate. Regular days off are defined as the time between the last on-duty hour following completion of a deputy's shift schedule until the first on-duty hour starting the deputy's next shift schedule.

3.03d Minimum Overtime During Vacation. Deputies shall be guaranteed eight (8) hours at the overtime rate of plus their normal salary (20 hours of straight time) if ordered in during scheduled vacation time. The deputy shall not be charged for the vacation day. Vacation is defined as the time between the end of the last on-duty hour of the shift scheduled prior to commencement of the vacation and the first on-duty hour starting the deputy's next scheduled shift following the vacation. Days off in conjunction with vacation, at the beginning or end of the vacation shall be treated as vacation days and paid as such under this subsection. While on vacation, a deputy shall have the right to bid on overtime, providing the deputy accepts the normal overtime rate without replacement of the vacation day.

3.03d(1) Vacation Overtime Authorization. In order to be paid for an order in during vacation, at the rate outlined in section 3.03d (Minimum Overtime During Vacation) above, including subpoena responses or nonrefundable loss, the call back must have been authorized in advance by the Sheriff, Undersheriff, Chief of Corrections, Jail Lieutenant or Duty Staff Officer.

3.03d(2) Nonrefundable Loss. In the event a deputy's vacation or regularly scheduled time off is canceled or modified because he/she is required to return to work after having notified the supervisor that he/she will suffer a nonrefundable out-of-pocket loss, and as a consequence the deputy suffers such a loss, the deputy shall be made whole for any such documented loss.

3.04 Equal Opportunity for Overtime. Overtime opportunities will be afforded as equally as possible within two major groups, Corrections Deputies and Corrections Sergeants. All overtime will be assigned through the Department and deputies will be paid the overtime rate as defined in this Agreement.

3.04a Overtime Selection List. Each group shall have a separate selection list. Corrections Sergeants or Deputies shall not replace each other unless the respective list has

been exhausted. Currently qualified Acting Sergeants will be given priority over other Deputies for Sergeant overtime. In case of emergency nothing in this Agreement shall limit any right of the Sheriff or designee to assign overtime directly to or call out deputies, notwithstanding their position on the list, or when assigned overtime or call out requires deputies to possess the required bona fide occupational skill, ability or qualification.

3.04b Overtime Posting. The Sheriff's Office will maintain a system of recording overtime worked by all members of the bargaining unit with a current posting on a bulletin board accessible to the deputies. The Sheriff's Office may comply with this section with a computer-based posting, accessible to deputies.

3.04c Voluntary Overtime Bidding. The Sheriff's Office will post voluntary overtime opportunities. Deputies will bid voluntary overtime at least 48 hours before the beginning of the shift, based on fewest overtime hours worked, then seniority; provided deputies who bid overtime must work bid overtime. The Sheriff's Office shall post a monthly list showing each deputy's respective number of overtime hours.

3.04c(1) Voluntary Overtime – 12-hour Shifts. The entirety of section 3.03 (Overtime Definitions) shall not apply to deputies on 12-hour shifts except they shall be paid overtime whenever such hours exceed 171 straight-time worked hours as provided in section 3.01d (12-Hour Shift).

3.04d Voluntary Short Notice (less than 48 hours) Non-Bid Overtime. Deputies may be afforded an opportunity to place their names on a list to accept short-notice voluntary non-bid overtime. Deputies signing this list shall indicate willingness to accept shifts at the Main Jail, Work Center, or both; and, shall be offered first opportunity for voluntary non-bid overtime, by seniority. This list will be rotated (*where the last offer stopped, the next person in seniority will be where the next offer starts*). Deputies who decline an overtime opportunity will be treated as if he/she had worked, for list rotation purposes. The total work time, including overtime, an individual Deputy shall be permitted to work, shall be limited to: no more than sixty-four (64) hours per week for Deputies assigned to an eight (8) hour per day work schedule, no more than seventy (70) hours per week for Deputies assigned to a ten (10) hour per day work schedule, and no more than one hundred twenty-eight (128) hours in a two (2) week period for Deputies assigned to a twelve (12) hour per day work schedule.

3.04d(1) Order-In Scheduling. Once a Deputy has reached their total work time maximum (cap) based on the Deputy's assigned daily work schedule (8, 10, or 12 hours per day), those overtime hours will count towards any order-in scheduling, placing the Deputy at the bottom of the order-in list.

3.04d(2) No Volunteers. Absent volunteers on the list described above, the Sheriff's Office will call Deputies for voluntary non-bid overtime based on their seniority, provided, the list of Deputies will be rotated (*where the last callout stopped, the next person in seniority starts the next callout*) so as to give each Deputy an equal opportunity to accept overtime work.

3.04e Mandatory Overtime. Mandatory overtime shall be paid at the overtime rate including deputies on 12-hour shifts, irrespective of section 3.01d (12-Hour Shift). Main Jail Corrections Deputies, Work Center Corrections Deputies, and Sergeants will have separate order-in logs. When possible, mandatory overtime shifts will be assigned 48 hours in advance of the shift. Generally, mandatory overtime will be site specific; provided nothing in this section precludes employees from one facility being ordered in to work at another facility if minimum staffing cannot be maintained without such action, or in the case of an emergency. Sergeants, or their designee in emergency situations, will call deputies for mandatory overtime based on criteria listed below provided the call out resumes where the last call out stopped.

3.04e(1) Multiple Shifts. When multiple shifts must be filled, the first deputy on the order-in log, using the criteria below, will be given the choice of the available order-in shifts; then the next deputy on the order-in log will be given the choice of the remaining shifts, and so on, until all available shifts are filled.

3.04e(2) Order In Criteria. The following criteria will be used when ordering deputies in to work:

- date last ordered to work mandatory overtime with oldest date called first
- special circumstances/deputy qualification (such as driving requirements, shift exchanges and general safety issues)
- deputies will only be ordered in on their weekend as a last priority or in an emergency
- the order in will generally be no longer than 4 hours

3.04f Extended Overtime. Deputies required to work on overtime (includes special duty) for an extended period shall be entitled to a minimum of eight (8) hours' time off before returning to duty.

3.05 Extended Shifts. Deputies who are required to work extended shifts of more than sixteen (16) consecutive hours, shall be paid for a designated "period of sleep" if in the facility, on duty and available for immediate response.

3.06 Compensatory Time. Employees earning overtime may elect to accrue such time to a compensatory time bank in lieu of overtime pay. The compensatory time bank use shall be capped at eighty (80) regular-time hours per calendar year. The compensatory time bank shall not exceed eighty (80) hours at any one time. The Sheriff shall pre-approve the days on which compensatory time will be taken, upon consideration of staffing needs. Compensatory time requests shall be submitted at least seven (7) calendar days before the date requested for use. Any denial shall be returned to the employee with an explanation for the denial within five (5) calendar days of receipt. Employees may cash out their compensatory time at any time throughout the year. The employer shall cash out all unscheduled compensatory time, as accrued on November 30 of each year, and such payment shall be made by December 31. Employees shall be paid their accrued compensatory time upon separation from County employment.

3.06a Compensatory Time Accrual/Usage Military Exception. Employees receiving orders of deployment (including mobilization) as defined by USERRA may use and

accrue more than eighty (80) hours of compensatory time as approved by the Sheriff. Requests to extend and use accruals beyond the eighty (80) hour cap may be approved by the Sheriff on a case-by-case basis.

ARTICLE 4 – HOLIDAYS

4.01 Eligibility Criteria. Deputies shall be entitled to accrue time in lieu of holidays only when the holiday is in a month for which the deputy receives compensation. Compensation is defined as payment of wages for work performed, vacation or accrued sick leave, or income for industrial injury not to exceed twelve months; provided that said work, vacation and/or paid leave must equal or exceed payment for eighty (80) hours in a calendar month. Deputies working less than an assigned eight-hour schedule shall receive holiday pay based on their budgeted full-time equivalency.

4.01a Eligibility if on Payroll on 6/15/94. Deputies on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

4.02 Accrual and Bidding of Holidays. All Corrections Deputies and Corrections Sergeants shall receive in lieu of holidays, 7.34 hours per eligible month up to 88 hours (11 days @ 8 hours). These days shall be scheduled as vacation consistent with section 5.03 (Vacation Bidding) except as noted below. Holiday hours accrued in the current year are available to be scheduled in the current year.

4.02a Specialized Units. Alternative Corrections, and the Jail Transport Units shall bid as vacation three holidays (Thanksgiving, Day before Christmas and Christmas Day on the day the County observes these holidays) and Classification shall bid these three holidays as vacation on the actual holiday if it is a normally scheduled workday consistent with section 5.03 (Vacation Bidding).

4.02b 12-Hour Shift. In the event the Sheriff's Office needs to make staff reductions in the Jail or Work Center and gives notice prior to shift bidding in section 3.02a (Shift Bidding) that holidays shall be paid for, in lieu of accruing time, then the following January all deputies assigned to work a 12-hour shift on a continuing basis shall receive, 7.34 hours payment each month in lieu of holiday accruals per eligibility criteria in section 4.01 (Eligibility Criteria).

4.03 Pay on Designated Holidays. Deputies who work on Memorial Day, Veteran's Day, Thanksgiving, the day after Thanksgiving, the day before Christmas or Christmas Day (based on the actual holiday, not the County-observed holiday) will be paid at the overtime rate for all hours worked each of those days between 12:00 a.m. and 11:59 p.m., regardless of hours worked per section 3.01c (Swing Shift Premium). There shall be no compounding or pyramiding of overtime rates.

4.04 Personal Holiday. Each deputy shall receive one (1) personal holiday (eight hours) each calendar year. The personal holiday must be taken during the year and cannot be cashed out upon separation. No deputy shall be eligible to receive the personal holiday until after completion of three (3) months of employment.

4.04a Personal Holiday Scheduling. Stipulations to the above policy are as follows:

- **Staffing Requirements.** A personal holiday request may not create a conflict with facility staffing requirements nor result in known overtime.
- **Request Timing.** Deputies must request use of a personal holiday at least two (2) weeks in advance of the requested day off.
- **Response Timing.** The Sheriff's Office shall provide a response no later than seven (7) calendar days from the date of request and such request will not be unreasonably denied.

ARTICLE 5 - VACATION

5.01 Vacation Accrual.

5.01a Vacation Accrual Rate. Eligible deputies shall accrue vacation on a calendar month basis. The amount of vacation earned for each calendar month shall be determined by the number of years of continuous service completed by the deputy immediately prior to the commencement of the calendar month in accordance with the following chart:

During the following years of service	Hours of vacation per month	Hours of Holiday per month	Total Monthly Accrual
0 – 1	6.67	7.34	14.01
2	7.34	7.34	14.68
3	8.00	7.34	15.34
4	10.00	7.34	17.34
5,6,7	11.34	7.34	18.68
8,9	12.00	7.34	19.34
10	13.34	7.34	20.68
11	14.00	7.34	21.34
12	14.67	7.34	22.01
13	15.34	7.34	22.68
14	16.00	7.34	23.34
15	16.67	7.34	24.01

5.01b Scheduling. Vacation hours accrued in one year must be scheduled in accordance with sections 5.03 (Vacation Bidding) and 5.04 (Vacating Bidding Limits) and used no later than January 7 in the subsequent year.

5.01c Eligibility Criteria. To be eligible to accrue vacation as provided herein, deputies must receive compensation each month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, or other paid leave; provided that said work, vacation and/or paid leave must equal or exceed payment for eighty (80) hours in a calendar month. Income resulting from an industrial injury to a maximum of twelve (12) months from the date of the injury shall also be credited as compensation.

5.01c(1) Eligibility if on Payroll on 6/15/94. Deputies on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

5.01d Monthly Vacation Accrual Anniversary Date. For deputies hired on or after June 15, 1994, the deputy's anniversary date will be used for vacation accrual purposes.

5.01d(1) Hired Prior to June 15, 1994. The monthly vacation accrual for deputies hired prior to June 15, 1994, will be based on the years of service they would have been given credit for on January 1, 1994, had the annual vacation accrual schedule remained in effect. January 1 will be the anniversary date for future vacation accrual for deputies hired prior to June 15, 1994.

5.02 Termination Cashout. When a deputy leaves employment with the County for any reason, such deputy will be paid for any unused vacation accrued to the date of termination at the appropriate schedule (see section 5.01a – Vacation Accrual Rate) for the years of service completed. Deputies who terminate or are terminated from County employment within six (6) months of their employment date shall not receive pro-rated vacation pay. Lump sum cashout of accruals upon termination of employment is not considered compensable hours for any purpose of eligibility or contribution pursuant to Section 6.1 (Eligibility Criteria).

5.03 Vacation Bidding. During the month of July of each year, in conjunction with shift bidding (section 3.02a – Shift Bidding), a vacation chart shall be posted by the Sheriff's Office for the following year. Deputies assigned to the Main Jail, Transport and Classification, Alternative Corrections, and the Work Center facility will bid on a separate vacation chart. The vacation charts must be completed by December 15th.

5.03a Bidding Limits.
Main Jail –

- No more than four (4) Corrections Deputies may bid for the same vacation period.
- No more than two (2) Sergeants, who must have different days off, may bid for the same vacation period.

Work Center – No more than two Corrections Deputies may bid for the same vacation period.

Special Assignments (Transport, Classification and Alternative Corrections) – No more than one deputy may bid for the same vacation period per special assignment area.

5.03b First Selection. Deputies shall bid for vacation periods per section 5.04 (Vacation Bidding Limits) as follows: Each individual, in seniority order, shall select their first two weeks of vacation time in a minimum of one-week and a maximum of two-week blocks, which need not be scheduled consecutively. Deputies shall make every effort to place their bid in twenty-four (24) hours, but in no case more than forty-eight (48) hours to make their bid, provided no one shall be skipped unless they have been personally notified by the shift or

administrative sergeant it is their turn to bid. If any deputy is skipped, the bid will continue to subsequent deputies until the skipped deputy notifies the shift or administrative sergeants of his/her bid which shall be limited to then available shifts without bumping. Deputies who know, or reasonably should know that they will be absent when it is their turn to bid, shall make a reasonable effort to be available. Upon timely request, an updated bid shall be emailed to the requesting deputy. Deputies who know, or reasonably should know they will be absent when it is their turn to bid shall make a reasonable effort to be available. If unavailable, a deputy may leave their bid preference in writing with the appropriate sergeant.

5.03c Second and Subsequent Selections. Following the first vacation selection a similar bid selection shall be held for individuals entitled to more than two weeks and a third and fourth bid, if necessary, for those entitled to more than four weeks shall be held. It is understood that the subsequent bids shall not displace selections made during prior bidding periods.

5.03d Definition. The making of a vacation bid is defined as the bidding deputy placing his/her name on the vacation bid sheet provided. Once the deputy's name is on the bid sheet he/she cannot change the bid.

5.03e Probationary Deputies. Probationary deputies hired after the annual vacation bid process shall submit written leave requests for open vacation slots using accrued leave or holidays.

5.03f Vacation Bid Weeks Trading. When vacation bidding is completed, deputies may trade bid weeks with the approval of the Sheriff's Office. Such trades shall not be unreasonably denied by the Sheriff's Office. Written requests must be submitted 30 days prior to the vacation commencing.

5.03g Vacated Vacation Week(s). Any existing vacation bid week(s) shall be considered vacated on the day after an employee's last day of employment. All vacated vacation week(s) shall be made available by seniority upon written request by the employee as outlined in this section.

1. The requesting employee must have forty (40) hours of unused/unallocated vacation hours available.
2. The employee must make a written request within fourteen (14) days of such vacated weeks first becoming available.
3. The supervisor must reply within sixteen (16) days after receipt of the written request. Decisions are subject to staffing and overtime considerations.

5.03g(1) Remaining Vacated Vacation Week(s) Available for Trade. In the event any vacated vacation weeks remain after completion of the process in Article 5.03g, those available weeks shall be made available for trade on a first come/first served basis in accordance with Article 5.03f.

5.04 Vacation Bidding Limits. Total hours which may be bid include the anticipated current year's accrued vacation under section 5.01a (Vacation Accrual Rate), and anticipated vacation which will be carried over (including any anticipated unused current year's accrued holiday hours per section 4.02 - Accrual and Bidding of Holidays), and vacation bonus pursuant to section 7.03 (Bonus Days). No deputy can take vacation unless the hours have been accrued and are available. Vacation is accrued in the current year and available the following year.

5.05 Deputies Working Less Than 1.0 FTE. Deputies working less than an eight-hour schedule shall accrue vacation benefits based on their currently assigned, but no more than their budgeted full-time equivalency.

5.06 Vacation Carryover. Deputies shall be allowed to carry over up to two hundred and forty (240) hours of vacation from one year to the next. Up to forty (40) hours of unused vacation in excess of 240 hours that cannot be used by January 7 due to operational needs shall be cashed out upon request. Such request must be submitted no later than November 30 of that year. Vacation hours in excess of 240 hours as of January 8 shall be forfeited.

5.07 Floaters. Up to 40 hours of vacation may be excluded from bidding to be "floated," with the requirement that any floater must be scheduled on approval of his/her Lieutenant with no additional overtime costs incurred. The parties recognize there may be periods identified on shift schedules where special staffing needs will require that floating days off and days available for changes to a bid vacation may be limited or excluded.

ARTICLE 6 - HEALTH & WELFARE

6.01 Eligibility Criteria. The County agrees to make contributions into the Teamsters Benefit Trust Funds, in order to provide the benefits outlined in the following sections of this Article on behalf of all employees covered by this Agreement who are regularly scheduled to work and compensated at least eighty (80) hours per month. Eligibility and contributions for employees newly employed with the County begins on the first of the month following eighty (80) compensated hours in one (1) calendar month of employment. The County obligation shall not exceed an initial two (2) months of contribution to establish coverage under Washington Teamsters Welfare Trust Plans. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, or other paid leave or income resulting from industrial injury not to exceed twelve (12) months from the date of injury; provided that said work, vacation and/or paid leave must equal or exceed payment for eighty (80) hours in a calendar month. Compensation earned in one (1) month provides benefit coverage pursuant to the Trust. Lump sum cashout of accruals upon termination of employment is not considered compensable hours for any purpose of eligibility or contribution. Benefits shall include the employee, spouse and dependent children in accordance with the Washington Teamsters Welfare Trust Plans.

6.01b Eligibility if on Payroll on 6/15/94. Deputies on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

6.02 Trust Terms. The County agrees to be bound by the terms of the Trustees of the Trust Funds as required by Section 6.01.

6.03 Health & Welfare. The County agrees to make monthly contributions towards the following plans:

- a) **Medical.** – Washington Teamster Welfare Trust Plan “B”.
- b) **Dental.** – Washington Teamsters Welfare Trust Dental Plan “B”.
- c) **Vision.** – Washington Teamsters Welfare Trust Extended Benefit Plan.
- d) **Life.** – Life insurance through a carrier to be selected by the County for \$50,000.
- e) **Waiver of Contributions.** – Washington Teamsters Welfare Trust Employee 9-month Disability Waiver of Contributions Extension.
- f) **Plan D Time Loss** – Washington Teamsters Welfare Trust Employee \$100 per week time loss.

6.04 Maintenance of Benefits

6.04a Medical Contributions

6.04a(1) County Contribution. The County shall pay \$1,232.50 per month for plan year 2019 to fund the Washington Teamster Welfare Trust Plan “B” and optional Plan “D” Time Loss Plan.

For plan year 2020, the County shall pay \$1,271.00 per month to fund the Washington Teamster Welfare Trust Plan “B” and optional Plan “D” Time Loss Plan.

In the absence of a successor agreement at the end of 2020, for plan year 2021, the County shall pay up to \$1334.00 per month, or the actual cost, whichever is less, to fund the Washington Teamster Welfare Trust Plan “B” and optional Plan “D” Time Loss Plan. There shall be no dynamic status quo increase to the County’s contribution rate beyond 2021. In the absence of a successor agreement at the end of 2021, the County shall continue to pay up to \$1,334.00 per month for plan year 2022 and beyond until a successor labor agreement is negotiated.

6.04a(2) Employee Contribution. Should funds designated in section 6.04a(1) (County Contribution) not be adequate to cover the full contribution for Medical Plan B and the optional Time Loss Plan D, payment via payroll deductions in the amount needed to fully fund the contribution for both Medical Plan B and Time Loss Plan D shall be the obligation of the employee. Any employee obligation shall be satisfied through payroll deduction utilizing the Flex 125 program. The Union may give the County 60 days’ notice to drop Time Loss Plan D to reduce the amount of any employee obligation.

6.04a(3) Employee Failure to Make Contributions During Absence. In the event an employee is a beneficiary of section 6.03 Health & Welfare without compensable

hours, and the employee has not written a check to reimburse the County per section 6.04a(2) during their absence, such amount shall be repaid to the County as provided in 6.04a(2).

6.04b Dental, Vision, Life, and Waiver of Contribution. The County agrees to pay the appropriate monthly contribution amount necessary to provide the benefits listed in sections 6.03 b), c), d), and e) (Dental, Vision, Life and Waiver of Contributions) during the life of this Agreement.

6.05 Non-Trust Plans. The County agrees that all information regarding provisions and costs of plans not covered by Teamsters through Federal Taft Hartley Trust Funds shall be made available to the Union within one (1) calendar month of written request from the Union.

6.06 Flex 125. All bargaining unit employees are eligible to enroll in the County's Flexible Spending Account Plan (Flex 125).

6.07 Medical Advisory Committee. When the County convenes the Medical Advisory Committee, a union representative and one (1) bargaining unit member, designated by the union, shall be afforded the opportunity to attend.

6.08 Retirement Health Savings Plan. The County agrees to make available to bargaining unit members a Retirement Health Savings Plan as provided by the County and in accordance with and as allowed by IRS regulations.

6.09 Re-Opener. Upon 30 days' notice to the County, the Union may open the provisions of this Article 6 (Health & Welfare Benefits) for the purposes of substituting alternative benefit plans or programs for the ones contained in this Article 6 (Health & Welfare). It is agreed that the County shall not incur any additional cost or liability either directly or indirectly by virtue of any substitution of plan or program. Except for the foregoing limit on County liability and cost, the County will not unreasonably withhold its agreement.

ARTICLE 7 - SICK LEAVE

7.01 Sick Leave Usage. Employees may use sick leave for absences due to illness (mental or physical), injury, health condition, preventive care, and for any other reason in accordance with the law. An employee may also use sick leave to care for the child of the employee, a dependent child as defined by law, spouse, State registered domestic partner, registered spousal equivalent (40 hour maximum if registered with an affidavit provided by Human Resources before leave is taken), parent, parent-in-law or grandparent or any other family member as defined by law (RCW 49.46.210). Sick leave may also be used for absences due to domestic violence, sexual assault or stalking (RCW 49.76.030). New hires may begin using sick leave once accrued.

7.02 Eligibility Criteria and Accrual Rate. Cumulative sick leave shall accrue to each deputy covered by this Agreement who has completed one (1) month of employment of eighty (80) compensated hours for a calendar month, in the amount of one (1) day, not to exceed eight (8) hours, for each month of employment to a maximum of nine hundred and sixty (960) hours. Deputies working less than an assigned eight-hour schedule shall accrue sick

leave benefits based on their currently assigned, budgeted full-time equivalency. To be eligible to accrue sick leave as provided herein, deputies must receive compensation each month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, or other paid leave. Employees must be compensated for eighty (80) hours in a calendar month to receive sick leave accruals as outlined above. In no instance shall sick leave accrue at a rate of less than one (1) hour for every forty (40) hours worked. Income resulting from an industrial injury to a maximum of twelve (12) months from the date of the injury shall also be credited as compensation.

7.02a Eligibility if on Payroll on 6/15/94. Deputies on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

7.02b Order of Accrual Usage. In general, eight hours of sick leave is accrued each month even if a deputy has accrued the maximum sick leave permitted under a union contract.

7.03 Bonus Days. A deputy having accrued seventy-five (75) days (600 hours) of sick leave on December 31 of any year shall receive an additional five (5) days (40 hours) of vacation to be used in the following calendar year. The additional days will be added to the vacation bank on January 8 of the following year in which they were earned.

7.04 Termination Cashout. Any deputy with three (3) or more years of employment with the County shall be entitled to cash upon termination in the amount of twenty-five percent (25%) of their sick leave bank at the time of termination. Lump sum cashout of accruals upon termination of employment is not considered compensable hours for any purpose of eligibility or contribution pursuant to Section 6.01 (Eligibility Criteria).

A deputy hired before September 1, 1988 shall be entitled to cash upon termination in the amount of fifty percent (50%) of their sick leave bank at the time of termination.

7.04a Notification and Application. Deputies must give at least thirty (30) days' notice prior to termination. Termination cashout of sick leave shall not apply to any deputy terminated for cause.

7.05 Verification. For absences exceeding three (3) consecutive work days, the County may request an employee provide verification that the use of paid sick leave is for an authorized purpose and the employee shall provide verification to the County's Human Resource Division no later than ten (10) work days following the date the request was made. Such requests shall be in accordance with RCW 49.46.210. Verification for domestic violence leave will be pursuant to applicable law. (WAC 296-135-070)

7.06 Layoff. Sick leave shall continue to accrue during periods of approved paid leaves of absence only, and during periods of illness. If a deputy is on layoff, sick leave shall not accrue during such layoff; however, upon return to work, the sick leave accrual remaining after cashout at the time of layoff, shall be made available to the deputy and additional days shall accrue from the first month the deputy returns to work.

7.07 Accrual Deduction. A deputy's sick leave bank may be reduced by the number of hours absent from work for the reasons set forth in sections 7.01 (Sick Leave Usage), 7.08 (Maternity or Disability Leave), or as provided under the law.

7.08 Maternity or Disability Leave. Sick leave shall include time off for maternity or disability leave. In the event sick leave is exhausted before the deputy returns to work, any vacation or other paid leave which has accrued must be utilized before approval of any leave without pay is considered by the County except for leaves falling under the federal Family and Medical Leave Act or other applicable law.

7.09 Notification to Supervisor. It is the employee's responsibility to provide reasonable notice to his/her supervisor of their inability to work prior to the beginning of the shift or as early as practicable.

7.10 Leave Sharing. Employees may voluntarily donate up to a maximum of twenty-four (24) hours of sick leave accruals and up to twenty-four (24) hours of vacation leave accruals each year to employees eligible to receive leave donations under the County's Leave Sharing Program.

7.11 On-Duty Assault. In the case of a documented on-duty assault, a deputy with a Workers' Compensation injury shall suffer no loss in wages or reduction in his/her sick leave bank for the first three days (one day = normally scheduled shift for days off) following the assault.

ARTICLE 8 – FAMILY AND MEDICAL LEAVE

The County agrees to provide unpaid leave to any eligible deputy covered by this Agreement, consistent with the Washington State Family Leave Laws and the Federal Family and Medical Leave Act. Deputies are not required to use accrued vacation time, personal holiday, compensatory time or sick leave before commencing unpaid family leave, except an employee who has previously used twelve (12) weeks of unpaid FMLA will use all allowed accrued vacation, and personal holiday time before beginning unpaid leave.

ARTICLE 9 - JURY DUTY

When a regular deputy covered by this Agreement is called upon for jury service in any municipal, county, state or federal court, the deputy shall advise the department head upon receipt of such call and if taken from work for such service, shall be reimbursed as provided herein for any loss in wages while performing such service; PROVIDED, that there shall be deducted from the wages of such deputy an amount equal to the amount such deputy received for jury duty.

ARTICLE 10 - BEREAVEMENT LEAVE

If a deputy suffers a death in the immediate family, the deputy shall be allowed not more than five (5) days (not to exceed forty (40) hours) off without loss in pay for bereavement in the death of spouse, domestic partner, registered spousal equivalent, children, and parents,

including step-parents and step-children of the deputy and spouse and three (3) days off for other immediate family members. (Defined to be brothers, sisters, grandchildren or grandparents of either the deputy or the deputy's spouse.) Deputies must register their domestic partner with the State of Washington or spousal equivalent with Administrative Services – Human Resources on the appropriate form before being able to utilize bereavement leave. For the purposes of bereavement leave only, a “day” is defined as the number of hours a deputy is assigned to work for the requested days off.

ARTICLE 11 - INITIATION FEE AND DUES CHECKOFF

11.01 Authorization of Deductions. For individuals who certify in writing that they authorize such deductions, the County agrees to deduct Union initiation fees and monthly dues from the wages of employees who have authorized such deductions in writing. The payroll deduction will begin upon hire, or on the pay period following the receipt of the authorization form and deductions will remain in effect until written notification otherwise from the employee to the County and the Union. For record keeping purposes, each party will promptly forward a copy of the written notification withdrawing authorization to the other party. The County shall submit the monies to the Secretary-Treasurer of the General Teamsters' Local Union No. 231 together with a list of employees and amounts to be credited to their account.

11.02 Hold Harmless. The Union and each employee authorizing the assignment of wages for the payment of Union dues hereby indemnifies and holds the County harmless from all claims, demands, suits, or other forms of liability that may arise against the County for or on account of any deduction made from the wages of such employee.

11.03 New Bargaining Unit Members. The County will provide Union Business Representatives reasonable access to meet with new employees while on duty for up to thirty (30) minutes for the purpose of presenting information about the bargaining unit. This shall generally occur as close as possible to an employee's date of hire, but in no instance later than ninety (90) calendar days.

ARTICLE 12 – WORK ASSIGNMENTS AND NON-WAGE REIMBURSEMENTS AND PAYMENTS

12.01 Specialty Positions. At the discretion of the Sheriff, employees may be appointed to the following specialty positions: Range Deputy, Transport Coordinator, NW Transport Assigned, Crisis Response Team (CRT), Crisis Negotiator and Training Deputies (Field, Defensive Tactics and Medical) – any of which may be required to be certified.

12.02 Specialty Position Premium. Deputies assigned to a Specialty Position listed in section 12.01 (Specialty Positions) shall be paid three point twelve percent (3.12%) based on step 9 of the deputy's matrix and sergeants shall be paid two point six percent (2.60%) based on step 5 of the sergeant's matrix per month in addition to their regular wages.

12.03 Uniform and Equipment All newly hired Corrections Deputies shall be provided mandatory uniforms and equipment (excluding footwear) for initial training and duty use as established by the Sheriff. The Sheriff reserves the right to specify, change or modify initial

issue uniforms and equipment as necessary. The department shall furnish sidearms, leather, and protective vests when required for all deputies.

12.03a Uniform and Equipment Allowance. Upon hire and annually thereafter, a uniform and equipment allowance in the amount of three hundred dollars (\$300) shall be paid to all deputies to purchase uniforms required by the Sheriff's office as well as all equipment necessary for the safety and performance of the employee. The uniform and equipment allowance shall be included with regular monthly pay and per IRS regulations shall be subject to tax. Uniform and equipment allowance shall be paid the first pay period in February.

12.03b Cleaning Allowance. The annual Clothing, Equipment and Cleaning Allowance was eliminated as a separate compensation item and added to the base wage on January 1, 2008. Effective January 1, 2017, the amount of six hundred forty-five dollars (\$645.00) shall remain in the base wage, where it shall increase as future wage increases occur, to be used for cleaning and maintaining uniforms. The parties agree for comparability purposes, such premium to employees is an element of wages.

12.03c Special Clothing and Equipment. Specialized clothing or equipment required by an employee in the performance of their assigned duties will be provided upon authorization by the Sheriff. Such clothing and equipment shall remain the property of the County.

12.03d Mandated Uniform Changes. It is understood that from time to time the Sheriff's Office may choose to enact uniform changes. If such changes are contemplated, the Labor Management Committee (Article 14.2) shall be convened to discuss any changes prior to enacting such changes.

12.04 Repair and Replacement. The cost of repair or replacement of clothing or County-issued equipment or personal equipment approved for duty use, used in furtherance of job related duties and damaged or destroyed in the line of duty will be borne by the County. Watch replacement or repair will be reimbursed or repaired up to a total cost of one hundred dollars (\$100); jewelry or similar items are not included. The amount paid for repair or replacement of a personally obtained, damaged item will be pro-rated based on the general condition of the article. The Sheriff will determine whether damage was done in line of duty, and if the item was approved for duty use, subject to the grievance procedure outlined herein.

12.05 Transportation Deputy Assignment. When trained and range qualified, Corrections Deputies shall rotate in the assignment of Transportation Deputy.

12.05a Schooling. Transportation Deputies will be paid for hours of schooling and qualifying that may be required by the Sheriff's Office. All hours spent in required schooling and qualifying will be considered as work hours.

12.05b Pay. Effective the first pay period 2007 Matrix rates were implemented in the payroll computer system, Transportation Pay was eliminated as a separate compensation item and was added to the base wage where it shall be increased automatically

as future wage increases occur. The Parties agree for comparability purposes this collective bargaining agreement provides such pay to employees as an element of wages.

12.05c Qualifications Standards. All Deputies shall be Transportation Qualified as an essential element of their job. The parties acknowledge that the current qualification standards require Corrections Deputies to be firearms qualified by the end of their probationary period and all Corrections Deputies must maintain firearms qualification throughout employment, with the exception of Corrections Deputies designated by the Sheriff.

12.05d Lunches. The parties agree that consistent with contracts between the County and other jurisdictions regarding the transport of inmates, deputies will be provided lunch at a contracted facility or if not at a contracted facility, the County travel policy for lunches will apply.

12.05e Western State Hospital Runs. The County agrees to continue the existing practice of providing two deputies for Western State Hospital (WSH) runs.

12.06 Pyramiding of Premiums. Effective December 31, 2020, payable the first full pay period in 2021, employees assigned to more than one specialty position listed in 12.01 shall be entitled to a maximum of two full premiums.

ARTICLE 13 - PHYSICAL EXAMS

13.01 New or Rehire Required Exams. Newly employed or re-employed Corrections Deputies shall be required to take and pass a physical examination meeting the requirements of the Civil Service Commission. It is understood between the parties that the Sheriff will be furnished, upon request, a copy of any physical or mental examination ordered by the Sheriff's Office.

13.02 Annual Exam Covered. Corrections Deputies and Corrections Sergeants may have one (1) physical exam paid by the County each year that their health plan does not provide them with a preventive exam.

13.02a Ordered Exams. Additional physical and/or mental examinations may be ordered by the Sheriff's Office. The first physical shall be administered by the doctor of the deputy's choice. Any second or subsequent exam ordered by the Sheriff's Office will be administered by a physician or psychiatrist selected by the Sheriff. The above referenced physical examinations shall be paid for at the County's expense. No deputy shall lose pay because a required physical and/or mental examination is scheduled during all or part of their normal work day.

ARTICLE 14 - MISCELLANEOUS

14.1 Rules of Operation. The Sheriff's Office shall adopt reasonable written rules of operating the Sheriff's Office and the conduct of deputies provided; however, before such rules are posted, a copy shall be furnished to the Union. The Union shall be allowed not less than

ten (10) days in which to make known any objection they may have concerning such rules, except in the case of emergency.

14.2 Labor Management Committee.

14.2a The parties agree there shall be a Labor Management Committee (LMC) to be convened upon reasonable notice and presentation of an agenda by the requesting party. The purpose of the committee shall be free dialogue to promote issue resolution. The furtherance of that objective and pursuant to Rule 408, no matter concerning any occurrences at a Labor Management Committee shall be used as evidence by either party in any forum for any purpose. Any agreements made by the committee that are to be evidentiary shall be reduced to writing and signed by the Union and the County's Labor Representative.

14.2b Without limitation, in light of Rule 408, any matter of concern such as:

- Operational issues
- Scheduling concepts
- Specialty position selection/disputes
- New program concepts

may be added to the agenda by the concerned party.

14.2c The Union shall designate bargaining unit members participating in Labor Management Committee meetings. The Sheriff shall designate management members. The membership need not be equal in number.

14.2d It is understood that any matter which has been made the subject of a filed formal grievance under the terms of this labor agreement shall be excluded from consideration by the Labor Management Committee and shall be addressed through the grievance procedures of this agreement. Potential grievances may be added to the agenda by either party. It is further understood that the work of the parties under this LMC provision shall in no way add to, subtract from, alter or amend the labor agreement unless mutually agreed upon by the Union and the County in writing.

14.2e Upon approval of the Sheriff, up to three (3) bargaining unit persons shall be granted release time without loss of straight-time earnings to attend scheduled Labor Management Committee meetings. Bargaining unit members assigned to attend such meetings on their day(s) off shall be compensated time and one-half (1.5) for all time spent in attendance but not less than two (2) hours of assignment.

ARTICLE 15 - UNION ACTIVITY

15.01 Negotiations. It is agreed that up to three (3) bargaining unit deputies shall be allowed to participate in negotiations without loss in pay, provided that:

(1) such deputies shall not receive overtime pay while serving on the negotiations committee.

(2) one (1) deputy will be selected from the Corrections Sergeant classification, one (1) deputy from the Main Jail and one (1) deputy from the Work Center.

15.02 Union Activity. It is further agreed that other time off for Union activity will be allowed without compensation providing such time off will not unnecessarily disrupt the operation of the Sheriff's Office. The Union will keep Human Resources advised of shop stewards and current members on the negotiating committee.

15.02a Shop Steward Training. Up to two shifts per calendar year shall be permitted off without pay for Shop Stewards to attend training/seminars conducted by the Union. Deputies must submit request at least thirty (30) calendar days in advance of training. The County may refuse to grant leave if absence would adversely impact the operations of the Sheriff's Office.

ARTICLE 16 - SEPARABILITY AND SAVINGS

If any article or section of this Agreement should be held invalid by operation or law or by any tribunal of competent jurisdiction, the balance of this Agreement shall continue in full force and effect. The article or section held invalid shall be modified as required by law or the tribunal of competent jurisdiction, or shall be re-negotiated for the purpose of an adequate replacement.

ARTICLE 17 - LONGEVITY

Effective the first pay period 2007 Matrix rates were implemented in the payroll computer system, longevity was eliminated as a separate compensation item and was added to the base wage where it shall be increased automatically as future wage increases occur. Effective the first full pay period following date of adoption, longevity steps in the Corrections Deputy Wage Matrix and the Corrections Sergeants Wage Matrix will be increased to equal .008 between each longevity step. The Parties agree for comparability purposes, this collective bargaining agreement provides such longevity as an element of wages.

ARTICLE 18 - GENERAL CONDITIONS

18.01 Range Placement. The County shall place deputies in a pay range, per Addendum B (Matrices), that is consistent with their duties, responsibilities, and job content.

18.02 Reclassification. When a reclassification to a higher level of responsibility occurs, the deputy will be placed in the pay step of the higher pay range that will provide not less than a five percent increase in salary. The reclassification date becomes the anniversary date for step advancement purposes.

18.03 Step Placement. Deputies will be placed in the first step of their assigned pay schedule. All pay schedules have annual steps. Movement to step 7 through 11 for sergeants and to step 11 through 15 for deputies shall require three years' service at the previous step.

18.03a Sheriff's Discretion on Step Placement. It is understood between the parties that the Sheriff may place deputies in a higher pay step at his discretion, subject to the approval of the County Executive. The Union shall be notified when this occurs.

18.04 Step Advancement. Advancement to the next pay step shall occur on the first day of the month in which the anniversary date falls.

18.05 Promotion Anniversary Date. When a deputy is promoted to a higher classification, the promotion date becomes the anniversary date for step advancement purposes.

18.06 Personnel Records Access. Each deputy shall have access to his/her personnel records, except supervisor's notes prepared for the purpose of preparing deputies evaluations.

18.07 Performance Evaluations. Deputies shall, upon request, be given an opportunity to review all evaluation reports made by any and all supervisory personnel. The deputy shall review and sign his/her evaluation after the Sheriff or designee has made written comments. If any additional comments are made after the deputy signs, the deputy shall be notified.

18.08 Training. Training opportunities will be offered to deputies in as fair and evenhanded a fashion as is possible.

18.09 Work In Higher Classification. Any employee required to perform work in a position with a higher wage classification to that which they normally hold for any hour worked shall be paid at their normal rate of pay plus five percent (5%), while so acting.

18.09a Acting Sergeant. Deputies who have successfully passed a Whatcom County Civil Service promotional process for Corrections Sergeant, and completed the required training, shall be eligible to work as an Acting Sergeant. In the absence of both a sergeant and acting sergeant, the available senior qualified deputy shall serve as acting sergeant during said absence. For the life of this Agreement, having once passed the sergeant's exam, a deputy shall not be required to test again to remain eligible to work as an acting sergeant; provided such deputy successfully completes either a sergeant's exam or an in-service refresher course at least every four (4) years. Employees who qualify under section 18.09a and perform work as an Acting Sergeant shall be paid at the appropriate step in Range 1 of the Sergeant's scale providing at least a 5% increase.

18.10 Part-Time and Temporary Deputies. Hourly rates shall be established for deputies working less than full-time by placing the deputy in the appropriate salary range based upon their employment with the County.

18.11 Shots. The Sheriff's Office will pay for and provide the following vaccinations or shots for the existing work force on a voluntary basis: diphtheria, tetanus, hepatitis A & B, and influenza. The Sheriff's Office will pay for and provide the same shots for all newly hired Corrections Deputies on a mandatory basis, except hepatitis A, which will be on a voluntary

basis. The County will provide and pay for follow-up blood tests to see if the hepatitis B shot was effective. New shots may be added as determined by the County Health Officer as prudent for the health of the deputies. Adverse reactions from mandated shots will be treated according to Labor & Industries standards.

18.12 Traveling Expenses. Deputies traveling out of the County on official business will be reimbursed for the reasonable cost of meals and expenses as may be authorized by County policy.

18.13 Subcontracting. Prior to subcontracting work currently performed by bargaining unit deputies, the County will give the union 60 days' notice of its intent to do so and, on request, will meet and discuss the decision. The 60-day notice requirement is not applicable if the subcontracting results from an emergency situation, or if bargaining unit deputies are not displaced by subcontracting.

18.14 Electronic Funds Transfer. All regular deputies shall authorize paycheck deposit by electronic funds transfer (EFT) within thirty (30) days hire. Institution changes require four (4) weeks' notice. Deputies providing documentation of their inability to open a checking and/or savings account may have this requirement waived. Deputies may stop EFT in emergency situations with at least seven (7) days' notice before a scheduled payday. Employees must restart the EFT within three (3) months.

18.15 Ability to Cross Border. All employees must maintain the ability to cross the Canadian border if they are assigned to a position which may at any time require crossing the Canadian border. If an employee is unable to maintain his/her ability to cross the border, the County agrees to meet and bargain the impact on said employees if requested by the Union.

ARTICLE 19- SALARY SCHEDULE

Effective January 1, 2019, each step in all ranges of the 2018 hourly matrix shall be increased by 2%.

Effective July 1, 2019, each step in all ranges of the 2019 hourly matrix shall be increased by 1%.

Effective the first full pay period in 2020, each step in all ranges of the 2019 hourly matrix shall be increased by 2.15%

Effective the first full pay period in July 2020, each step in all ranges of the 2020 hourly matrix shall be increased by 1%.

Deputies shall be classified pursuant to Addendum A (Position Title Index) and paid pursuant to Addendum B (Matrices), which are a part of this Agreement by reference.

ARTICLE 20 - GRIEVANCE PROCEDURE AND ARBITRATION

20.01 Grievance Definition. Grievance as used herein shall mean any dispute or controversy which might arise as to the interpretation or application of this Agreement.

20.01a Initial Filing. Grievances must be addressed within thirty (30) calendar days from knowledge of the incident by the deputy first following their chain of command in an attempt to adjust the dispute or they shall be deemed null and void. With failure within the time limit to satisfy the dispute, the grievance procedure shall be initiated.

20.01b Union Notification. Should any grievance herein defined arise, the same shall be taken up with the representative of the Union, who will then take the grievance up with the Sheriff and the Head of Human Resources or designee.

20.02 Arbitration. Any grievance submitted and processed in accordance with the grievance procedure provided above which is not satisfactorily adjusted within thirty (30) calendar days may be taken to arbitration by the County or the Union as herein provided. However, prior to arbitration, the County Executive shall be advised of the dispute.

Either party may, within five (5) working days after failure to adjust the grievance in Subsection (b), serve upon the other party written demand for arbitration. The parties shall select an impartial arbitrator within ten calendar days after service of the demand for arbitration. If the parties fail to agree within this period upon an arbitrator who is able and willing to serve, either party may, within five (5) calendar days thereafter, request the Federal Mediation and Conciliation Service to submit a list of eleven (11) disinterested persons living in the Northwest who are qualified and willing to act as an impartial arbitrator. From the list the County will strike two names, then the Union two names until the single name remaining is appointed as the arbitrator.

20.02a Hearing Commencement. The arbitrator shall commence the hearing. The award of the arbitrator shall be rendered in writing together with his written findings and conclusions and shall be final and binding upon the parties to this Agreement and upon the complaining deputy and deputies, if any.

20.02b Arbitrator's Fees. The arbitrator's fees and expenses, the cost of any hearing room and the cost of the shorthand reporter and of the original transcript, if requested by the arbitrator, shall be borne equally by the County and the Union. All other expenses and costs shall be borne by the parties incurring them.

20.02c Arbitration Venue. Venue for all grievance arbitrations shall be Whatcom County unless otherwise mutually agreed.

20.03 Time Limitations. The County and the Union agree to comply with the time limitations set forth above and either party shall have the right to insist that the time limitations be complied with, provided, however, said time limitations may be waived by mutual agreement but in no event shall failure to comply with the time limitations set forth above deprive the arbitrator of authority to decide the grievance.

20.04 No Lockout, Strike or Slow Down. All grievances as defined in this section shall be settled in accordance with the procedures outlined above and there shall be no lockout, strike, interruption of work, slow down, or other interference with production during the life of this Agreement.

20.05 Election of Remedies. Any action appealed to the Civil Service Commission shall not be subject to the grievance procedure herein. Any matter taken to the grievance procedure may not be appealed to the Civil Service Commission.

20.06 Past Practice. No action by any bargaining unit member in applying or interpreting this Agreement will be binding upon the County as a past practice.

ARTICLE 21 – SENIORITY

Seniority lists for each unit covered by this Agreement will be maintained separately for the purpose of layoff, recall, vacation, extra overtime, and shift bidding. Employees transferring from one unit to another will have their names placed at the bottom of the new unit list, provided however, total length of service with the County will be credited to such deputy for the purposes of vacations, sick leave, and longevity accrual. Seniority units shall consist of the following; Corrections Sergeants and Corrections Deputies who shall bid for shifts.

ARTICLE 22 - MANAGEMENT RIGHTS

Consistent with the Sheriff's authority and obligations in the County Charter, any and all rights concerned with the management operations of the County and its Sheriff's Office are exclusively those of the Sheriff's Office unless otherwise provided by the terms of this Agreement. The Sheriff's Office has the authority to adopt reasonable rules for its operation and the conduct of its deputies; provided, such rules are not in conflict with the provisions of this Agreement, or with applicable law. The Sheriff's Office has the right to discipline, temporarily lay off or discharge deputies; to assign work and determine duties of deputies; to schedule hours of work, to determine the number of deputies to be assigned to duty at any time and such other rights as are normal to County government and not expressly limited in this Agreement or applicable laws.

ARTICLE 23 - INDEMNITY AND HOLD HARMLESS AGREEMENT

The County agrees to hold harmless deputies for all damages, including attorney fees which they may suffer as a result of lawsuits commenced against them arising out of their activities which are within the scope of their employment for Whatcom County. Should the deputy's actions be outside the scope of their employment, or the allegations contained in the complaint allege actions which, if proven, would be outside the scope of their employment; or be intentional torts, then the County will not pay that judgment. In addition, the deputy will hire counsel. Whatcom County will compensate the deputy in a timely manner for that counsel on a reservation of rights basis. This means, if the allegation contained in the complaint is proven then the County will not pay the judgment and the deputy will be responsible for reimbursing the County for its attorney fees. However, should the allegation of intentional tort not be proven

but merely negligence, then the County will pay the judgment and will not seek reimbursement for the attorney's fees.

The above language will be interpreted such that the only circumstances in which the County will not pay a judgment against a deputy and the deputy will be responsible for reimbursing the County for attorney's fees paid pursuant to a reservation of rights is where it is actually found that the deputy acted outside the scope of his or her employment or committed an intentional tort.

ARTICLE 24 - TERMINATION CLAUSE

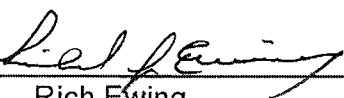
24.01 Duration. The parties acknowledge the predecessor agreement's, terms and conditions continue as provided in RCW 41.56 and this Agreement shall be in full force and effect from January 1, 2019, to and including December 31, 2020, and shall continue in full force and effect from year to year thereafter, unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other at least sixty (60) days prior to the date of expiration.

24.02 Subsequent Agreements. It is further provided that where no cancellation or termination notice is served and the parties desire to continue said Agreement but also desire to negotiate changes or revisions in this Agreement, either party may serve upon the other a notice at least sixty (60) days prior to January 1st, 2021, or January 1st of any subsequent year, advising that such party desires to continue this Agreement but also desires to revise or change the terms or conditions of such Agreement.

THIS AGREEMENT IS EXECUTED THIS 3rd day of December, 2019 by the duly authorized representative of the parties hereto.

GENERAL TEAMSTERS' LOCAL
UNION NO. 231

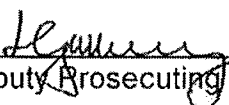
WHATCOM COUNTY, WASHINGTON

By: 
Rich Ewing
Secretary-Treasurer

By: _____
Jack Louws
Whatcom County Executive

DATE COUNCIL APPROVED:

APPROVED AS TO FORM:


Civil Deputy Prosecuting Attorney

**ADDENDUM A
TO THE AGREEMENT
by and between
WHATCOM COUNTY, WASHINGTON
and
GENERAL TEAMSTERS' LOCAL UNION NO. 231
CORRECTIONS DEPUTIES & SERGEANTS BARGAINING UNIT**

POSITION TITLE INDEX

<u>Range</u>	<u>Position</u>
1	Corrections Sergeant (Firearms Qualified)
11	Corrections Sergeant (Firearms Qualified with one premium)
12	Corrections Sergeant (Non-Firearms Qualified)
13	Corrections Sergeant (Non-Firearms Qualified with one premium)
2	Corrections Deputy (Firearms Qualified)
21	Corrections Deputy (Firearms Qualified with one premium)
22	Corrections Deputy (Non-Firearms Qualified)
23	Corrections Deputy (Non-Firearms Qualified with one premium)

ADDENDUM B

CORRECTIONS DEPUTIES

Effective January 2019 (+2.0%)		12 months service required to move to next step										3 years required to move to next step				
Range	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14	Step 15
2	Deputy (Firearms Qualified)				\$27.48	\$28.52	\$29.62	\$30.81	\$31.68	\$32.64	\$34.69	\$34.96	\$35.24	\$35.53	\$35.81	\$36.10
21	Deputy (Firearms Qualified) with 1 premium				\$28.50	\$29.54	\$30.64	\$31.83	\$32.70	\$33.66	\$35.71	\$35.98	\$36.26	\$36.55	\$36.83	\$37.12
22	Deputy (Non Firearms Qualified)				\$27.07	\$28.10	\$29.19	\$30.35	\$31.21	\$32.16	\$34.17	\$34.44	\$34.72	\$35.00	\$35.28	\$35.56
23	Deputy (Non Firearms Qualified) with 1 premium				\$28.09	\$29.12	\$30.21	\$31.37	\$32.23	\$33.18	\$35.19	\$35.46	\$35.74	\$36.02	\$36.30	\$36.58

Effective July 2019 (+1.0%)		12 months service required to move to next step										3 years required to move to next step				
Range	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14	Step 15
2	Deputy (Firearms Qualified)				\$27.75	\$28.81	\$29.92	\$31.12	\$31.99	\$32.97	\$35.03	\$35.31	\$35.60	\$35.88	\$36.17	\$36.46
21	Deputy (Firearms Qualified) with 1 premium				\$28.78	\$29.84	\$30.95	\$32.15	\$33.02	\$34.00	\$36.06	\$36.34	\$36.63	\$36.91	\$37.20	\$37.49
22	Deputy (Non Firearms Qualified)				\$27.35	\$28.38	\$29.48	\$30.66	\$31.52	\$32.48	\$34.51	\$34.79	\$35.07	\$35.35	\$35.63	\$35.91
23	Deputy (Non Firearms Qualified) with 1 premium				\$28.38	\$29.41	\$30.51	\$31.69	\$32.55	\$33.51	\$35.54	\$35.82	\$36.10	\$36.38	\$36.66	\$36.94

Effective January 2020 (+2.15%)		12 months service required to move to next step										3 years required to move to next step				
Range	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14	Step 15
2	Deputy (Firearms Qualified)				\$28.35	\$29.43	\$30.56	\$31.79	\$32.68	\$33.68	\$35.79	\$36.07	\$36.36	\$36.65	\$36.95	\$37.24
21	Deputy (Firearms Qualified) with 1 premium				\$29.40	\$30.48	\$31.61	\$32.84	\$33.73	\$34.73	\$36.84	\$37.12	\$37.41	\$37.70	\$38.00	\$38.29
22	Deputy (Non Firearms Qualified)				\$27.93	\$28.99	\$30.11	\$31.31	\$32.20	\$33.18	\$35.25	\$35.54	\$35.82	\$36.11	\$36.40	\$36.69
23	Deputy (Non Firearms Qualified) with 1 premium				\$28.99	\$30.04	\$31.16	\$32.37	\$33.25	\$34.23	\$36.31	\$36.59	\$36.87	\$37.16	\$37.45	\$37.74

Effective July 2020 (+1.0%)		12 months service required to move to next step										3 years required to move to next step				
Range	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11	Step 12	Step 13	Step 14	Step 15
2	Deputy (Firearms Qualified)				\$28.63	\$29.72	\$30.87	\$32.11	\$33.01	\$34.02	\$36.14	\$36.43	\$36.72	\$37.02	\$37.31	\$37.61
21	Deputy (Firearms Qualified) with 1 premium				\$29.70	\$30.79	\$31.93	\$33.17	\$34.07	\$35.08	\$37.21	\$37.50	\$37.79	\$38.08	\$38.38	\$38.68
22	Deputy (Non Firearms Qualified)				\$28.21	\$29.28	\$30.41	\$31.63	\$32.52	\$33.51	\$35.61	\$35.89	\$36.18	\$36.47	\$36.76	\$37.05
23	Deputy (Non Firearms Qualified) with 1 premium				\$29.28	\$30.34	\$31.47	\$32.69	\$33.58	\$34.57	\$36.67	\$36.95	\$37.24	\$37.53	\$37.82	\$38.12

ADDENDUM B

CORRECTIONS SERGEANTS

Effective January 2019 (+2.0%)		12 months service required to move to next step					3 years required to move to next step					
Range	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11
1	Sergeant (Firearms Qualified)			\$36.96	\$38.31	\$39.83	\$41.85	\$42.18	\$42.52	\$42.86	\$43.20	\$43.55
11	Sergeant (Firearms Qualified) with 1 premium			\$38.00	\$39.35	\$40.87	\$42.89	\$43.22	\$43.56	\$43.90	\$44.24	\$44.59
12	Sergeant (Non Firearms Qualified)			\$36.41	\$37.75	\$39.24	\$41.23	\$41.56	\$41.89	\$42.23	\$42.56	\$42.91
13	Sergeant (Non Firearms Qualified) with 1 premium			\$37.45	\$38.79	\$40.28	\$42.27	\$42.60	\$42.93	\$43.27	\$43.60	\$43.95

Effective July 2019 (+1.0%)		12 months service required to move to next step					3 years required to move to next step					
Range	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11
1	Sergeant (Firearms Qualified)			\$37.33	\$38.69	\$40.23	\$42.26	\$42.60	\$42.94	\$43.29	\$43.63	\$43.98
11	Sergeant (Firearms Qualified) with 1 premium			\$38.38	\$39.74	\$41.28	\$43.32	\$43.65	\$43.99	\$44.34	\$44.68	\$45.03
12	Sergeant (Non Firearms Qualified)			\$36.78	\$38.13	\$39.63	\$41.64	\$41.97	\$42.31	\$42.65	\$42.99	\$43.33
13	Sergeant (Non Firearms Qualified) with 1 premium			\$37.83	\$39.18	\$40.69	\$42.69	\$43.03	\$43.36	\$43.70	\$44.04	\$44.38

Effective January 2020 (+2.15%)		12 months service required to move to next step					3 years required to move to next step					
Range	Position	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11
1	Sergeant (Firearms Qualified)			\$38.14	\$39.53	\$41.09	\$43.17	\$43.52	\$43.87	\$44.22	\$44.57	\$44.93
11	Sergeant (Firearms Qualified) with 1 premium			\$39.21	\$40.60	\$42.16	\$44.25	\$44.59	\$44.94	\$45.29	\$45.64	\$46.00
12	Sergeant (Non Firearms Qualified)			\$37.57	\$38.95	\$40.49	\$42.54	\$42.88	\$43.22	\$43.57	\$43.91	\$44.27
13	Sergeant (Non Firearms Qualified) with 1 premium			\$38.64	\$40.02	\$41.56	\$43.61	\$43.95	\$44.29	\$44.64	\$44.99	\$45.34

Effective July 2020 (+1.0%)												
Range	Position	12 months service required to move to next step					3 years required to move to next step					
		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11
1	Sergeant (Firearms Qualified)			\$38.52	\$39.92	\$41.50	\$43.61	\$43.95	\$44.31	\$44.66	\$45.02	\$45.38
11	Sergeant (Firearms Qualified) with 1 premium			\$39.60	\$41.01	\$42.58	\$44.69	\$45.04	\$45.39	\$45.74	\$46.10	\$46.46
12	Sergeant (Non Firearms Qualified)			\$37.94	\$39.34	\$40.89	\$42.96	\$43.31	\$43.65	\$44.00	\$44.35	\$44.71
13	Sergeant (Non Firearms Qualified) with 1 premium			\$39.03	\$40.42	\$41.98	\$44.05	\$44.39	\$44.74	\$45.09	\$45.44	\$45.79

**ADDENDUM C
ADVICE OF ADMINISTRATIVE INVESTIGATION**

Date:

To:

From:

Subj:

As required by section 2.07a (Due Process) of the Corrections Deputies & Sergeants Collective Bargaining Agreement this document notifies you that you are the subject employee in connection with an Investigation that has been authorized by the Sheriff.

An interview will be performed at a later date. Prior to the interview, you will receive an Advice of Investigative Interview providing you with the name of the investigating officer, the name and rank of the interviewer and the names of others who will be in attendance, the specific allegations and the policy violations. All involved parties shall be bound to the NOTICE provisions contained at the end of this Advisement.

☐ **THIS IS A CLASS I ADMINISTRATIVE INVESTIGATION**

☐ **THIS IS A CLASS II ADMINISTRATIVE INVESTIGATION**

This investigation is to determine the facts and possible violations of Sheriff's Office Policy/Procedure, Rules and Regulations regarding:

Alleged Acts of Misconduct:

Alleged Policy Violations:

Whatcom County Sheriff's Office **ADVICE OF ADMINISTRATIVE INVESTIGATION** Page 1 of 2 _____
Deputy Initials

NOTICE:

Effective immediately, you are directed to have no communication regarding this matter, either on-duty or off-duty, with any person including potential witnesses or persons who may be materially involved with the administrative investigation.

*This directive means you are prohibited from communicating to these individuals about this matter by **any** means to include, but not be limited to: fax, telephone, mail, electronic messaging, in-person, person to person relay or any other form of communication.*

Failure to comply with this directive shall be considered Insubordination, and may result in discipline up to and including termination.

You are not prohibited from discussing this matter with your Union representative, Union legal advisor, or your personal attorney.

This directive will remain in effect until either the adjudication or conclusion of the administrative investigation. *Adjudication or conclusion of the case is when the employee has been notified by the appointing authority of a finding.*

Acknowledgment:

I certify that I have read this advisement form in its entirety (2 pages). I acknowledge that I understand the contents and that I have received a copy of this document.

Printed name

Signature

Date

Investigation Advisement made by: _____ (Print name)

Date

Time

Place

ADDENDUM D

ADVICE OF ADMINISTRATIVE INTERVIEW AS REQUIRED
BY SECTION 2.07c(1) (INTERVIEW ADVISEMENT) OF THE
CORRECTIONS DEPUTIES & SERGEANTS COLLECTIVE BARGAINING
AGREEMENT

Date:

To:

From:

Subj:

☐ YOU ARE THE SUBJECT EMPLOYEE

☐ YOU ARE A WITNESS EMPLOYEE

in connection with an Investigation that has been authorized by the Sheriff.

The Officer in Charge of this Investigation is: _____

This interview is to be performed by _____ (name, rank)
and also in attendance will be _____, all of whom shall be
bound to the NOTICE provisions contained at the end of this Advisement.

☐ THIS IS A CLASS I ADMINISTRATIVE INVESTIGATION

☐ THIS IS A CLASS II ADMINISTRATIVE INVESTIGATION

A. This investigation is to determine the facts and possible violations of Sheriff's Office
Policy/Procedure, Rules and Regulations regarding:

Allegations:

For a Subject of the investigation, state the specific factual nature of investigation
For a Witness in the investigation, state the purpose of interview

Possible Policy/Rules/Regulations Violations include but are not limited to:
(this section is optional for notice to a witness employee)

Whatcom County Sheriff's Office ADVICE OF ADMINISTRATIVE INTERVIEW Page 1 of 4 _____
Deputy Initials

- B. Failure to fully cooperate by truthfully answering all questions specifically and directly related to the matter under investigation and/or by providing investigators with all potentially relevant information will result in disciplinary action, which may include discharge from the Sheriff's Office.
- C. All **Class I** Administrative Investigations **shall be** audio recorded. Class II investigative interviews are generally not recorded, but will be audio recorded at the request of either party. In a Class II interview, should one party object to the use of an audio recording then a transcript shall be made and be the only official record. Class II transcription expenses shall be at the expense of the requesting party.
- D. You may request and obtain the presence of a Union representative during the investigatory interview (if no request is made there shall be no obligation of representative presence) provided that:
1. The Union representative **shall not** disclose the nature or content of the interview to any person, except as necessary for the Union to meet its duty of fair representation. The Union representative **shall not** obstruct the investigation, including revealing information to others except as permitted herein.
 2. In addition to observing the interview, the Union representative, may reasonably participate in accordance with 1 above, by:
 - a. Consulting with the employee before the interview begins;
 - b. Reasonably raising valid objections and consulting with/advising the employee about a privilege she/he has the right to assert once questioning starts;
 - c. Assisting the employee if questions are ambiguous or misleading by rephrasing the question or asking that the question be rephrased;
 - d. Interceding if questions become harassing or intimidating; and
 - e. Asking additional questions and seek to clarify responses.
 3. During the investigatory interview, the Union representative may not;
 - a. Interrupt if the employee is asked to give an initial version of events;
 - b. Consult with the employee before he/she answers every question;
 - c. Otherwise interfere with appropriate questioning by the investigator.
 4. The Union representative may not be the spouse of the subject employee or a witness in the matter under investigation.
- E. Employees subject to investigation shall be given at least two (2) hours' notice before an interview. The failure of an employee subject to investigation to obtain a Union representative within a reasonable time, (generally two hours) **is not** an acceptable basis for unreasonably delaying an investigative interview with the understanding the interview shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, or during the normal waking hours for the employee. Upon request, the employee will be granted a twenty-four (24) hour delay, unless the exigency of the investigation requires otherwise.

F. You have the right to suggest specific witnesses to be interviewed by the investigator. Upon notice of completion, you have the right to review and make corrections and/or additions to your transcript prior to the conclusion of the investigation.

G. Statements made to the investigator during an Administrative Investigation:

1. Will become part of the investigative file for the use of the Sheriff only to the extent permitted by law and subject to all legal protection available as a private confidential and privileged communication to the extent permitted by law; and
2. Will not be provided to other witnesses or interviewees involved in the investigation by the investigator such that the information is attributable to any individual identified by the investigator; and
3. Are not to be communicated to any person by you except to a Union representative if necessary to protect the legal rights of a witness or subject. You may consult with your private attorney.
4. Provided, that the referral of the summary of facts and findings to the involved employee's chain of command, Human Resources, or the Prosecuting Attorney's Office shall not constitute a breach of any privilege, privacy, or confidentiality; and provided further that should the involved employee choose to appeal the resulting personnel or disciplinary action and thus put at issue the merits of that action, statements given, and persons involved in the investigation may be asked by the Sheriff's Office or the subject employee to give a sworn testimony regarding their involvement. If other disclosure is necessary, notice will be given to the Union.

H. The investigator will read the following warning into the recording at the start of the interview:

You are about to be questioned as part of an administrative investigation being conducted by the Whatcom County Sheriff's Office. You are hereby ordered to fully answer the questions that are put to you that relate to information you possess and/or your conduct and/or job performance, and to cooperate with this investigation. You are required to answer questions relating to the performance of your official duties or fitness for duties. Your failure to answer truthfully and cooperate with this investigation can be the subject of disciplinary action in and of itself, including dismissal. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be used or introduced into evidence in a criminal proceeding.

NOTICE:

Effective immediately, except as otherwise provided above, you are directed to have no communication regarding this matter, either on-duty or off-duty, with any person including potential witnesses or persons who may be materially involved with the administrative investigation.

*This directive means you are prohibited from communicating to these individuals about this matter by **any** means to include, but not be limited to: fax, telephone, mail, electronic messaging, in-person, person to person relay or any other form of communication.*

Failure to comply with this directive shall be considered Insubordination, and may result in discipline up to and including termination.

You are not prohibited from discussing this matter with your Union representative, Union legal advisor, or your personal attorney.

This directive will remain in effect until either the adjudication or conclusion of the administrative investigation. *Adjudication or conclusion of the case is when the employee has been notified by the appointing authority of a finding.*

Acknowledgment:

I certify that I have read this advisement form in its entirety (4 pages). I acknowledge that I understand the contents and that I have received a copy of this document.

Printed name

Signature

Advisement made by: _____ **(Print name)**

Date

Time

Place

ADDENDUM E

LETTER OF AGREEMENT BY AND BETWEEN WHATCOM COUNTY, WASHINGTON AND GENERAL TEAMSTERS LOCAL 231 – CORRECTIONS

Trial Shift Bidding Procedure for Bid Years 2020 and 2021

This Letter of Agreement is by and between Whatcom County, hereafter called “the County” and Teamsters Union Local 231, hereafter called “the Union” regarding and attached to the Corrections Deputies and Sergeants Collective Bargaining Agreement.

The purpose of this Letter of Agreement is to temporarily implement a modified shift cycle (3.01d 12-Hour Shift) and shift bid periods (3.02a(4) (Shift Bid Periods) on a trial basis before the parties commit to permanent contract language changes. The modified shift cycle and bidding process is expected to benefit bargaining unit members and improve operations within the Corrections Bureau.

A. Administration of Trial Period

1. The trial period will begin with the May 2019 bid cycle for 2020 and end no later than May 2021.
2. The parties will periodically monitor and review the developing schedule to ensure there are no unintended or unanticipated results that adversely affect the County or bargaining unit members. Schedules will be completed by or before October 31.
3. In April of 2020, the County and Union will meet and evaluate the effectiveness of the new shift bidding process.
4. The parties may mutually agree to extend the trial period or implement all or part of the language modified by this Agreement.
5. If no mutual agreement is reached by May 31, 2021, this Agreement will expire and the articles covered will revert to the language in effect in the 2017-2018 collective bargaining agreement.

B. Modified Shift Bidding Process for Bid Years 2020 and 2021

The parties agree to the following contract language during the trial period:

3.01d 12-Hour Shift. Deputies employed on a 12-hour shift schedule shall have work hours counted according to the 7(k) exemption under the Fair Labor Standards Act for the purpose of determining when overtime compensation is due. An employee must have in excess of 86 straight-time worked hours in a fourteen (14) day work cycle in order to receive overtime pay

unless overtime is otherwise specifically required by section 3.04e (Mandatory Overtime). All overtime requires appropriate authorization.

3.02a Shift Bidding. Consistent with section 3.02 (Staffing Imperatives), the following procedure shall apply:

4. Shift Bid Periods. A shift bid period shall be defined as alternating between six (6) and seven (7) fourteen (14) day periods.

During the trial period, there will be no mandatory requirement to bid off of a shift and deputies may choose to alternate between the Work Center and the Main Jail.

3.04c(1) Voluntary Overtime – 12-hour Shifts. The entirety of section 3.03 (Overtime Definitions) shall not apply to deputies on 12-hour shifts except they shall be paid overtime whenever such hours exceed 86 straight-time worked hours as provided in section 3.01d (12-Hour Shift).

3.02d Shift Exchanges. A shift exchange is a voluntary agreement between deputies to trade shifts that have been bid according to 3.02a. Deputies wishing to exchange a shift must complete the appropriate form and obtain appropriate authorization. Failure to show up for a shift exchange will result in revocation of the privilege to exchange shifts for up to one year and the time is required to be made up as staffing dictates. Shift exchanges cannot cause an adverse impact with unreasonably extended work hours. It is understood by both parties that per the FLSA, no overtime liability will be incurred by the County when deputies voluntarily exchange shifts. Probationary deputies are not allowed to exchange shifts except with prior approval of his/her supervisor.

3.02e Shift Trade. A shift trade is a voluntary agreement between deputies to substitute for one another during scheduled work hours to meet personal needs and family responsibilities. Deputies wishing to trade shifts must complete the appropriate form and obtain appropriate authorization. Shift trades cannot cause adverse impact to staffing or operations, or unreasonably extend work hours. No overtime liability will be incurred by the County when deputies voluntarily trade shifts. Failure to show up for traded shift will result in revocation of the privilege to trade shifts for up to one year and the time is required to be made as staffing dictates.

C. All other provisions in Article 3 are unchanged.

**LETTER OF UNDERSTANDING #1
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
AND
GENERAL TEAMSTERS' LOCAL UNION NO. 231**

This letter of understanding is in consideration of that certain collective bargaining agreement between the General Teamsters' Local Union No. 231, and Whatcom County, regarding and attached to the Corrections Deputies & Sergeants collective bargaining agreement.

1. Drug-Free Work Place Policy. Upon request by the County, during the term of this Agreement, the Union shall meet and enter into negotiations on an alcohol and drug-free work place policy, including drug testing.

2. Training. The County will provide the following types of training for Correction Deputies and Corrections Sergeants:

(a) Administering of prescription drugs; and

(b) AIDS prevention and safeguards against AIDS in the work environment.

3. Grooming. Mustaches shall be allowed as long as they conform to grooming standards.

4. Non-Firearms Qualified. The Sheriff shall maintain a list of employees who were not as of January 1, 2007 firearms qualified. These employees were grandfathered and will not be required to be firearms qualified during their Corrections employment with Whatcom County. Other deputies hired prior to December 31, 1998, can be relieved of the transportation qualified requirement as approved by the Sheriff and added to the list. Any such approved non-firearms qualified employees will be placed in the appropriate "non-firearms qualified" range as of July 6, 2014.

**LETTER OF UNDERSTANDING #2
(TEMPORARIES WITH BENEFITS)
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
GENERAL TEAMSTERS' LOCAL UNION NO. 231**

This Letter of Understanding is by and between Whatcom County, hereafter called "the County," and General Teamsters' Local Union No. 231, hereafter called "the Union," regarding and attached to the Corrections Deputies & Sergeants Collective Bargaining Agreement (CDSCBA)

The purpose of this Letter of Understanding is to establish the conditions under which an employee may fill an ongoing full-time temporary position with benefits under CDSCBA.

1) Temporaries with Benefits

The County sometimes identifies the need for ongoing full-time temporary positions not funded in the County budget as regular on-going positions. These temporary work assignments are ones that are anticipated at the outset to extend beyond the contract limitation for "temporaries" and are anticipated to work full time and meet the benefit eligibility threshold of eighty (80) compensated hours per calendar month. Work assignments and special conditions will end on the date specified in the letter of appointment, when the work is completed, or when employment is terminated unless an extension is specifically agreed to by the County and the Union.

2) Union Membership and Benefits Eligibility

Upon completion of eligibility requirements, full-time temporaries with benefits will become eligible for health & welfare benefits in accordance with Article 6 of the CDSCBA and Washington Teamsters Welfare Trust (WTWT) rules. Life insurance will be available to the employee only.

Full-time temporaries with benefits will be eligible for paid leave in accordance with:

- Article 4 – Holiday
- Article 5 – Vacation
- Article 7 – Sick Leave

3) Pay & Other Conditions of Employment

Full-time temporaries who have previously been employed as regular employees by the Jail will receive the current rate of pay at the step they were at when they left the County, but no higher than the top Corrections Deputy step. Qualified temporaries who have not been regular employees of the Jail will be paid at the entry step for Corrections Deputies.

Such temporary positions with benefits will NOT be eligible for other terms and conditions of employment under the CDCBA, including, but not limited to:

- Regular employment status
- Step increases

- Seniority
- Paid and Unpaid Leaves of Absence (other than those described above)
- Internal investigation notice
- Grievance procedures and arbitration
- Bidding for positions posted within the bargaining unit, except as allowed under Whatcom County Civil Service Commission Regulations & Rules and RCW Title 41

4) Posting

Positions under this Letter of Understanding will be filled in compliance with Whatcom County Civil Service Commission Regulations & Rules and RCW Title 41.

5) Regular Positions

If a current full-time temporary with benefits is selected to fill a regular, budgeted County position, the period served as a temporary with benefits will apply toward health and welfare benefits eligibility if there has been no break in service and coverage and if allowed by current benefit plans. If appointed to a regular position, vacation accruals will commence at the "0-1" year level.

6) Non-Precedent Setting

This Letter of Understanding will not be considered precedent setting to any other matter of concern raised by Teamsters or employees under the Corrections Deputies & Sergeants Collective Bargaining Agreement.

7) Termination

Either the employee or the County can end the employment relationship outlined in this Letter of Understanding without notice or reason.

8) Cancellation

Either party may cancel this agreement at any time following thirty (30) days written notice to the other.

**LETTER OF UNDERSTANDING #3
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
AND
GENERAL TEAMSTERS LOCAL 231 – CORRECTIONS
Grandfathering Deputies Who Have Worked As “Lead Deputy”**

This Letter of Understanding is by and between Whatcom County, hereafter called “the County” and Teamsters Union Local 231, hereafter called “the Union” regarding the Corrections Deputies and Sergeants Collective Bargaining Agreement.

The purpose of this Letter of Understanding is to grandfather those Deputies who have actively worked as a “Lead Deputy” for the last five or more quarters during the last three years at the Work Center to the designation of “Acting Sergeant.”

- A. The Teamsters Union 231 bargaining agreement representing the Corrections Deputies and Sergeants expired December 31, 2018. The County and the Union have entered into collective bargaining for a successor agreement.
- B. Article 18.09 currently provides that when there is no Sergeant or Acting Sergeant on a shift, the most senior Deputy is designated as “Lead Deputy” and paid a premium of 5% while performing work in a higher classification.
- C. Article 18.09a currently outlines the process to become eligible as an Acting Sergeant. Acting Sergeants must complete required training and pass the sergeant’s exam to be eligible to work in the place of a Sergeant.
- D. The designation of both a “Lead Deputy” and “Acting Sergeant” causes operational problems.
- E. The parties now agree to remove the “Lead Deputy” designation from Article 18.09 in the successor agreement.


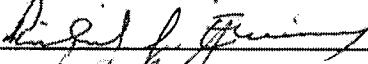
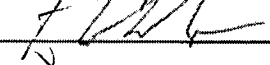
The parties, therefore, agree as follows:

- 1. The following Deputies (who have formerly been recognized as Lead Deputy) are now designated as Acting Sergeant.
 - Rob Stewart
 - Mike Zender
 - Ray Gillig
 - Rich Turner
 - James Hayes
- 2. The Deputies named above will undertake individual training plans and phase into meeting the requirements set forth in Article 18.09a to become eligible and qualified as an Acting Sergeant. Deputies who previously worked as Lead Deputy at the Work


Center will require additional training to become eligible as Acting Sergeant at the Main Jail.

3. Deputies are responsible to fulfill the criteria set forth in Article 18.09a to remain on the Acting Sergeant list.

This Letter of Understanding will not be considered precedent setting with regard to any other matter or concern under the collective bargaining agreement.

Name	Signature	Date
Daron Smith, Teamsters Local 231		11/15/19
Rich Ewing, Teamsters Local 231		11-15-19
Bill Elfo, Whatcom County Sheriff		11-19-19
Karen Goens, HR Manager		
Jack Louws, Executive's Office		

Approved as to form:


Civil Deputy Prosecuting Attorney

11-20-19
Date



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-617

File ID:	AB2019-617	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	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:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Summit Food Service to furnish food to inmates at the Whatcom County Jail in the amount of \$540,750.00

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

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

WHATCOM COUNTY
SHERIFF'S OFFICE

BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

MEMORANDUM

TO: Jack Louws, County Executive
FROM: Bill Elfo, Sheriff
RE: Jail Food Services Contract
DATE: November 13, 2019

Enclosed are two (2) originals of a contract for Jail Food Services between Summit Food Service and Whatcom County for your review and signature.

▪ **Background and Purpose**

Summit Food Service will replace Aramark Food Service in 2020 after being awarded the bid via the RFP process. They will furnish nutritious, wholesome and palatable food to inmates in accordance with this contract and in compliance with the NCCHC Accreditation for the Jail.

▪ **Funding Amount and Source**

Meal prices are reflected on page 7 of the contract and will come from the approved 2020 Corrections Bureau budget with a maximum annual amount of \$540,750.00.

▪ **Differences from Previous Contract**

This is a new contract.

Please contact Laurie Reid at extension 6506, if you have any questions or concerns regarding the terms of this agreement.

Encl. (2)

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	Corrections/In Custody
Contract or Grant Administrator:	Laurie Reid
Contractor's / Agency Name:	Summit Food Service
Is this a New Contract? 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 #: _____	
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): 19-55 Contract Cost Center: 118150	
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"/> 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): \$ 540,750.00 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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: _____	
Summit Food Service was awarded the bid for Jail Food Services. They will provide nutritious, wholesome and palatable food to inmates in accordance with this contract and in compliance with the NCCHC Accreditation for the Jail.	
Term of Contract: 1 year Expiration Date: 12/31/2020	

Contract Routing:	1. Prepared by: LR	Date: 11/13/19
	2. Attorney signoff: _____	Date: 11/20/19
	3. AS Finance reviewed: MRE	Date: 11/15/19
	4. IT reviewed (if IT related): Jg	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: _____

Last edited 04/11/19

WHATCOM COUNTY AND SUMMIT FOOD SERVICE FOOD SERVICE PARTNERSHIP AGREEMENT

This Food Service Partnership Agreement is made and entered into by and between Whatcom County, on behalf of the Whatcom County Sheriff's Office and Summit Food Services, a New Mexico Limited Liability ("SUMMIT" aka "Contractor") (collectively "the Parties").

1. TERM AND INTENT

- 1.1 County grants SUMMIT the exclusive right to provide Food Service, to operate the Food Service Facilities, and to provide to County, employees, guests and other persons at the Premises such Food Service and Products. Food Services will be provided at the Whatcom County Correctional Facility (Jail), Juvenile Detention and the Whatcom County Work Center. This agreement covers all facilities except that the Juvenile Detention Facility will be negotiating an amendment to the agreement that will cover the aspect of food service that are unique to Juvenile Offenders.
- 1.2 This Agreement shall commence on January 1, 2020 (the "Commencement Date") or sooner if mutually agreed upon in writing by both of the Parties. The Agreement will remain in effect through December 31, 2020. The Agreement shall renew annually for four additional years, unless either party provides written notice of termination to the other party at least Ninety (90) days prior to the expiration date or unless this Agreement is otherwise terminated as set forth herein.

2. DEFINITIONS

- 2.1 Accounting Period. SUMMIT's accounting calendar is based on an accounting cycle consisting of three (3) rotational periods of four (4) weeks, four (4) weeks, five (5) weeks.
- 2.2 Agreement. In order of precedence: (i) this Food Service Partnership Agreement, Exhibits and Schedules, as amended and, where specifically included by reference, (ii) the SUMMIT's Proposal and (iii) the Solicitation.
- 2.3 Food Preparation Equipment. Equipment or appliances reasonably necessary for Food Service including, within budgetary limitations, stove, oven, sink, refrigerator, microwave, mixer, steamer, slicer, freezer and fire extinguishing equipment that is in good condition and of a commercial grade.
- 2.4 Food Service. Operations and Products to be provided by SUMMIT in accordance with this Agreement related to the preparation, service and sale of food, beverages, goods, merchandise and other items at the Premises.
- 2.5 Food Service Facilities. Space for SUMMIT to prepare and perform Food Service at the Premises including, , kitchen, , office and storage areas as they currently exist
- 2.6 Governmental Rule. Any statute, law, rule, regulation, ordinance or code of any governmental entity (whether federal, state, local or otherwise).

- 2.7 Office Equipment. All office items reasonably necessary for SUMMIT staff to perform office-related functions at the Premises including, without limitation, furniture (e.g. desk, chair, file cabinet), equipment (e.g. phone, data/high speed internet lines),
- 2.8 PCI Standards. All rules, regulations, standards or guidelines adopted or required by the Payment Card Industry Security Standards Council relating to privacy, data security and the safeguarding, disclosure and handling of Payment Instrument Information.
- 2.9 Premises. The County's food service facility (ies) located at 311 Grand Avenue, Bellingham, WA 98225 and 2030 Division St. Bellingham, WA 98226
- 2.10 Products. Food, beverages, goods, merchandise, and supplies.
- 2.11 Proprietary, Confidential and Trade Secret Information. Items used in SUMMIT Food Services (owned by or licensed to SUMMIT) including, , menus, signage, surveys, Software (i.e. menu systems, food production systems, accounting systems), recipes, management guidelines and procedures, operating manuals, personnel information, purchasing and distribution practices, pricing and bidding information, financial information. Provided any information covered under Washington State Public Disclosure Act will be subject to the requirement of that act (see section 10.3 Public Records Act.)and; provided, that the following items are specifically excluded: (i) information generally available to and known by the public or (ii) information independently developed or previously known by the County. Also provided that the County and the State have access to any and all financial records pertaining to this agreement for purposes of auditing. County.
- 2.12 Servicewares. Items used in the service of food and beverages including, within budgetary limitations, cups, eating utensils, disposables, trays, and carts.
- 2.13 Smallwares. Items used in the preparation of food including, within budgetary limitations, pots, pans and kitchen utensils.
- 2.14 Supervisory Employee. Those persons who have directly or indirectly performed management or professional services on behalf of SUMMIT for the County at any time during this Agreement including, without limitation, any corporate employee, manager, assistant manager, chef, lead cook or dietitian.
- 2.15 Utilities and Amenities. All utilities reasonably requested by SUMMIT to provide Food Services at the Premises including, without reasonable limitation, heat, hot and cold water, gas, refrigeration, lights, electric current, ventilation, air conditioning, recycling, cooking waste removal, hazardous waste removal, garbage removal services, exterminator services, telephone services, internet access, and sewage disposal services.

3. FOOD SERVICES

- 3.1 Food Service. SUMMIT will oversee Food Services at the Premises which shall include, within agreed upon limitation, preparation and service of food and beverages to County's adult and juvenile offender populations, employees, staff and guests.
- 3.2 Program Specifications. Menu. SUMMIT shall provide a menu cycle as it deems necessary for operations provided the menu's will substantially reflect the sample menus submitted as part of the RFP process and will be reviewed and approved by the Chief Corrections Deputy or her designee. Standard meals will provide an average of 2700 calories a day. With the exception of calorie restricted diets, all specialty diets will reflect the same number of average calories.

A. Food service will meet all current nutritional standards as established by:

- 1) The American Correctional Association
- 2) The National Commission on Correctional Health Care (NCCHC)

B. Specialty diets. Will also be included, including but not limited to:

- 1) Bag Lunches. SUMMIT shall provide Bag Lunches upon request.
- 2) Medical Meals. SUMMIT shall provide Medical Meals upon request.
- 3) Religious Meals. SUMMIT shall provide Religious Meals upon request.
- 4) Holiday Meals. SUMMIT shall provide Holiday Meals upon request.

C. Portions. Portions of all foods placed on the trays will be the sizes/weights reflected on the menus and be consistent across all trays. Portions that appear to be undersized or trays that have obviously different sized portions will be returned to the kitchen and adjusted, or replaced. Replacement tray costs are the responsibility of SUMMIT.

D. Outside Inside. Summit shall host an e-commerce website to permit third parties to purchase hot and cold meals and Products for offenders. Summit shall prepare and deliver e-commerce purchases up to twice a week to offenders, days shall be mutually agreed upon between the parties. County will provide daily inmate roster on an agreed upon schedule but no less than once per day.

E. Locations. SUMMIT shall operate and manage Food Services at the Premises and provide or transport food to the other corrections facilities including the Work Center and Juvenile Detention as the County and SUMMIT mutually agree. SUMMIT will provide and be responsible for the costs associated with the vehicle they use to transport meals to the Work Center.

F. Hours. SUMMIT shall provide necessary Food Services at such hours as the County and SUMMIT mutually agree.

3.3 Purchasing. SUMMIT shall purchase those Products and supplies necessary to comply with SUMMIT's obligations as set forth in this Agreement from SUMMIT's approved vendors that meet SUMMIT's guidelines and requirements. This includes routine cleaning supplies for the kitchen and service areas. The rating of foodstuffs shall meet or exceed those included in the SUMMIT's response to the RFP. SUMMIT will be responsible for moving items from the exterior of the jail into the secure delivery sallyport and then, with the assistance of Inmate workers, move the items from the sallyport to their appropriate storage areas.

3.4 Inventory. SUMMIT will purchase and own all inventories of food, beverages, and supplies. Upon termination of this Agreement for any reason, at SUMMIT's option, (i) SUMMIT may remove and retain any remaining Product inventory or (ii) County will purchase from SUMMIT, at SUMMIT's invoice cost, any remaining Product inventory that is still within its "use by" date.

3.5 Cleaning. SUMMIT and County shall be jointly responsible for housekeeping and sanitation in the food preparation, receiving, storage and service areas of Premises. SUMMIT shall perform routine cleaning and housekeeping in the food preparation, service and storage areas. This will include regular cleaning of the kitchen grease trap. Additionally, SUMMIT will be responsible for the supervision of the Jail Laundry at the Downtown Jail, including assigning and supervising inmate workers to Laundry positions and supervising their work. County shall perform janitorial services for the remainder of the Facilities. The County will also be responsible for major cleaning including, fixtures, ceilings, electric light fixtures, duct work, plenum chambers, pest control and roof fans throughout the Food Service Facilities as defined herein. County shall be responsible for removal of refuse from the collection areas and all refuse removal charges. SUMMIT will be responsible

for removal of refuse out of the Kitchen service area to the large waste containers stored in the secure sallyport/drive through area and employ practices and supervise the application of those practices so as to not allow food or debris go down the sink or floor drains.

- 3.6 SUPPLIES. SUMMIT will additionally purchase both laundry supplies and general cleaning supplies for both the Downtown Jail and the Work Center. The current vendor for general cleaning and laundry supplies is ECOLABS, costs of these items, including shipping, tax, and a 15% markup for the handling of this ancillary duty will be paid by the County. Invoices will be submitted using the same system used for the payment of other services.
- 3.7 Inmate Workers. Inmate workers will be provided to SUMMIT to assist with all cleaning, food service, movement of inventory, Laundry, and transporting refuse from the kitchen area to the outside secure trash receptacles.

4. EMPLOYEES

- 4.1 Employees. SUMMIT shall hire employees necessary for its performance of this Agreement. Persons employed by SUMMIT will be the employees of SUMMIT and not of County. SUMMIT's employees and agents shall comply with applicable rules and regulations concerning conduct on the County's premises which the County imposes upon its employees and agents provided such rules and/or regulations are not in violation of any federal, state, and/or local laws. County agrees to provide SUMMIT notice of any proposed changes in rules, at least thirty (30) days prior to implementation except in cases of emergencies. The County will define what the emergency is for the SUMMIT employees. SUMMIT will consider County's written requests to remove Food Service employees, provided such requests are non-discriminatory and comply with all laws and regulations governing employment. The County retains the rights to require all new employees be approved for jail access in advance of their first day of work; provided that every effort will be made on the County's part to expedite such approval. The County also retains the right to pull access for any new or current Summit Employee if, in the judgement of the County, allowing the employee access to the facilities would constitute a danger to the safety, health and/or security of the facility. In the event that facilities access was denied or recalled, this shall not constitute a personnel action on the part of the County against the Summit employee.
- 4.2 Existing Employees; Employment Terms; Employee Pension and Benefit Plans. With the exception of the current Food Service Manager, SUMMIT in its sole discretion may elect to hire any managers or employees of County or County's incumbent foodservice provider (collectively, "Existing Employees") who are qualified, available and willing to provide Food Service at the Premises. SUMMIT shall have the authority to establish the terms of employment for all current SUMMIT managers and employees (including Existing Employees that SUMMIT may elect to hire in connection with this Agreement).
- 4.3 Payroll Taxes. SUMMIT shall be responsible for all withholding and payroll taxes relative to SUMMIT's employees.
- 4.4 Background Checks. SUMMIT shall conduct necessary background checks as required by law. The County reserves the right to run standard criminal background checks on applicants prior to employment on County premises, and to further screen an applicant within applicable Federal, state and local laws and regulations, including but not limited to the Federal Polygraph Protection Act.

- 4.5 Training and Orientation. SUMMIT shall be responsible for training new employees as described in their bid response. Additionally, the County will provide a mandatory orientation during the first seven (7) to ten (10) days covering basic principles of safety and security when working with offenders.
- 4.6 Equal Opportunity and Affirmative Action Employer. SUMMIT abides by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their age, race, color, religion, sex, sexual orientation or national origin. SUMMIT employs and promotes individuals without regard to age, race, color, religion, Creed, sex, sexual orientation, national origin, protected veteran status or disability.
- 4.7 Non-Hire. County acknowledges that SUMMIT has invested considerable amounts of time and money in training its Supervisory Employees. Therefore, the County agrees that during the Supervisory Employee's employment with SUMMIT and for a period of twelve (12) months thereafter no Supervisory Employees of SUMMIT will be hired by County nor any facility affiliated with County, nor will County permit employment of SUMMIT Supervisory Employees on County's Premises. County agrees that if it violates this provision, County shall pay to SUMMIT and SUMMIT shall accept as liquidated damages and not as a penalty, an amount equal to one time the annual salary) of the Supervisory Employee(s) hired by or allowed to work with County in violation of the terms of this Agreement. SUMMIT shall be entitled to pursue all other remedies available under federal, state, or local law. This provision shall survive the termination of this Agreement.

5. PREMISES, FACILITIES, UTILITIES AND EQUIPMENT

- 5.1 Premises. The Premises shall be in good condition and maintained by the County to ensure compliance with applicable Governmental Rules and to enable SUMMIT to perform its obligations hereunder. County shall be responsible for any modifications or alterations to the workplace or the Premises necessary to comply with any applicable Governmental Rules. SUMMIT shall have no obligation to maintain or repair the Premises, unless the damage to the premises is caused by SUMMIT employees.
- 5.2 Equipment. Without limiting the foregoing, County shall permit SUMMIT to use all of the County's Food Preparation Equipment in the performance of Food Service. The Food Preparation Equipment provided by County shall be commercial grade, in good condition and shall be maintained, repaired and replaced by County to permit the performance of the Food Service and to ensure compliance with applicable Governmental Rules. SUMMIT and County shall inventory County's current Equipment within thirty (30) days after the Commencement Date. SUMMIT shall take reasonable care of all Food Preparation Equipment under its custody and control, provided that the foregoing shall not limit County's obligation to maintain, repair and replace (as necessary) the Food Preparation Equipment. If County fails to make necessary repairs or replacement to equipment within a reasonable amount of time, SUMMIT shall have the right to effect equipment repairs or replacements at County's expense. Notice to the County of necessary repairs/replacement must be made in writing, which can include email. SUMMIT shall retain title to equipment hereunder and shall be entitled to assert a security interest in any equipment that it

purchases or repairs under this section provided that once the cost of the purchased equipment or equipment repair has been recovered, SUMMIT shall release the security interest and title for any such purchased equipment to County.

5.3 Facilities, Utilities. At its own expense, County shall maintain, repair, replace, and keep in safe operating condition said Facilities and Utilities, to permit the performance of the Food Service and to ensure compliance with Governmental Rules.

5.4 Smallwares and Servicewares. At its own expense, County shall furnish SUMMIT with the appliances, wares and equipment reasonably requested by SUMMIT including all Cooking Equipment, Smallwares and Servicewares. SUMMIT will utilize the County Jail purchasing system and submit written requests for additional or replacement items. Replacement or additional supplies are subject to the County's approved budget limits. Except in emergencies, the cost of items purchased outside of the County purchasing will be the responsibility of SUMMIT.

5.5 Computer Equipment.

A. Internet Access. Internet Access. If Summit is to implement a point-of-sale system, County will allow Summit to use County's existing internal network cabling to designated locations throughout both facilities. To the extent Summit installs and maintains its own POS System, County shall provide access to existing electrical outlets. County shall allow Summit and the internet provider physical access to the area where a high-speed internet connection will be installed, and shall permit Summit's installation of a router and dedicated high-speed internet circuit with full administrative control to establish a connection between the foodservice office, workstations (if any) and Summit's network. The County assumes no costs and will not provide cabling in the event Summit does not wish to use the established wired network cables.

B. Software. SUMMIT will license products, software and maintenance for use in providing services in accordance with this Agreement. SUMMIT has procured a license to access and use SUMMIT's centralized Nutritional Database ("NDB") for nutritional analysis, menu planning and other operational purposes for County's Premises. County agrees that all software associated with the operation of the Food Service, including without limitation, the NDB, food production systems, and accounting systems, is owned by or licensed to SUMMIT. County's access or use of such software shall not create any right, title, or copyright in such software. Upon termination of this Agreement, County shall have no right to access or retain any SUMMIT software or Confidential Information produced by that software; Provided that the County or their designee maintains its right of access to Summit's financial software and records as it applies to business records between the SUMMIT and the County.

6. LICENSES, PERMITS AND TAXES

- 6.1 Licenses and Permits. SUMMIT shall procure, maintain and post the food licenses and permits as required by law. In those instances where sales or similar tax is assessed Summit under the terms of this agreement, the County shall reimburse Summit for such tax utilizing the standard invoicing system. County represents and warrants that it has and will maintain all other licenses and permits necessary to operate the Premises and the Food Services. The County agrees to notify SUMMIT immediately upon receiving notice of loss of any such permit or license.

7. FINANCIAL ARRANGEMENTS

7.1 Payment Arrangement.

A. Inmate Meal Rate.

- a. For a Scaled Rate. County shall pay SUMMIT the rate per Meals served:

Population	Price Per Meal
Under 270	TBN
271 – 280	\$1.428
281-290	\$1.399
291-300	\$1.371
301-310	\$1.346
311-320	\$1.322
321-330	\$1.300
331-340	\$1.282
341-350	\$1.264
351+	\$1.247

Summit will present the invoice in such a way that it is clear the number of meals served at each mealtime and the price per meal for the specific mealtime. Summit will also break out those meals that are provided to Juvenile Detention and those that are enhanced sack lunches for the Work Crews.

Any other expenses, such as dietary supplements or cleaning/paper supplies will be invoiced separately.

- b. Sack Meals. Shall be charged at the rate of \$1.720
c. Juvenile Meals. Shall be charged at the rate of \$2.53

- B. Outside Inside. Summit shall be responsible for all costs related to the e-commerce program and shall be entitled to keep all proceeds from such e-commerce program. SUMMIT shall pay to County thirty percent (30%) of all Net Revenue collected for the Outside Inside program. Net Revenue shall be described as Gross Revenue minus applicable tax and reasonable

processing fees. Invoices submitted will include a breakdown of gross revenues and the applicable sales tax and fees.

- C. Investment. SUMMIT agrees to invest in equipment during the term of the Agreement. The investment will be amortized on a straight-line basis over the anticipated five-year term of the Agreement. The items purchased with these dollars will be based on mutual agreement and take into consideration the needs of the facility. In the event this Agreement terminated by either party for any reason, County shall reimburse SUMMIT the unamortized balance of the investment at least fifteen (15) days prior to the effective date of termination. SUMMIT will maintain a security interest in the assets acquired with the investment dollars until such assets are fully amortized or reimbursed. Any proposal for the purchase of any equipment must be submitted prior to any purchases. The proposal must include full costs (equipment, shipping, delivery, installation, maintenance agreements and tax) and be signed off by the County and coordinated with ADS Facilities Management.
- D. Service and Pricing Assumptions. The financial terms set forth in this Agreement, and all other obligations assumed by SUMMIT hereunder, are based on the following assumptions:
 - 1. Commissary Services: The pricing was determined based on SUMMIT also providing Commissary Services for the County.
 - 2. Purchasing: SUMMIT will make purchases on behalf of the County at a level similar to that in place at the Commencement of this Agreement.

To the extent any of the basic assumptions change or if County requests a significant change in Services as provided under this Agreement, the SUMMIT's rates shall be proportionately increased, the amount of that increase to be mutually agreed upon, unless the Parties otherwise mutually agree otherwise.

- 7.2 Payments Due and Late Payment Penalty. SUMMIT shall issue an invoice at the end of each Accounting Period showing the amounts due. County shall pay the full invoice amount within thirty (30) days from the issuance of the invoice.
- 7.3 Changes in Conditions. The financial terms set forth in this Agreement, and all other obligations assumed by SUMMIT hereunder, are based on conditions in existence on the date SUMMIT commences operations including, , population; labor costs; applicable Governmental Rules; food and supply costs; provision of equipment and utilities; state of the Premises; and federal, state and local sales, use and excise taxes (the "Conditions"). Further, County acknowledges that in connection with the negotiation and execution of this Agreement, SUMMIT has relied upon County's representations regarding existing and future conditions (the "Representations"). In the event of change in the Conditions, inaccuracy of the Representations, or if County requests any significant change in the Food Services as provided under this Agreement, the financial terms and other obligations assumed by SUMMIT shall be renegotiated to reflect a proportionate increase in SUMMIT's charges to the County. SUMMIT will provide a thirty (30) day notice of their intent to request such increased charges. Any changes must be with the mutual agreement of both the County and Summit and be filed as an amendment to this agreement prior to the increases taking place. Increased charges unilaterally billed will not be paid.
- 7.4 Future Pricing. Pricing adjustments shall be made on an annual basis and shall be agreed upon by the parties at a rate no less than the greater of: three percent (3%) or the most recently released U.S. Department of Labor Consumer Price Index, All Urban Consumers, National Average Unadjusted, Food Away From Home. Except in no case shall the increase exceed 3% of the

previous year's Consumer Price Index (CPI). Up to ninety (90) days prior to the anniversary of the Commencement Date, SUMMIT shall provide County notification of the adjustment. On the anniversary date, SUMMIT proposed adjustments shall go into effect, unless the Parties have entered into a written agreement with an alternative cost adjustment.

- 7.5 Attorney's Fees and Costs. County shall pay all costs of collecting any amount due SUMMIT, including attorney's fees and all costs and other expenses incurred by SUMMIT in collecting an indebtedness of County. This provision shall survive the termination of the Agreement.

8. TERMINATION OF THE AGREEMENT.

- 8.1 Termination for Non-Performance. If either party refuses, fails or is unable to perform or observe any of the terms or conditions of this Agreement for any reason other than for Excused Performance as set forth in this Agreement, the party claiming such deficiency shall provide the breaching party written notice of any such breach. If the breaching party remedies such breach within, (i) fifteen (15) days in the case of any other breach, or (ii) a reasonable time where cure is not possible within fifteen (15) days (collectively the "Notice Period"), the notice shall be null and void. If the breaching party fails to remedy the breach within the Notice Period, the party giving notice may cancel the Agreement after the end of the Notice Period.
- 8.2 Termination for Financial Insecurity. If either Party makes an unauthorized assignment for the benefit of creditors, files a petition under the bankruptcy or insolvency laws of any jurisdiction, has or suffers a receiver or trustee to be appointed for its business or property, or is adjudicated a bankrupt or an insolvent, the other party may terminate the Agreement with three (3) days' notice. Provided, however, that both parties agree to provide to each other thirty (30) days' notice before filing a petition for bankruptcy.
- 8.3 Voluntary Termination. At any time after one year of service, either Party may terminate this Agreement with or without cause by written notice to the other party given not less than ninety (90) days prior to the effective date of termination.
- 8.4 Steps Upon Termination. Upon the termination or expiration of this Agreement, SUMMIT shall vacate the Premises occupied by SUMMIT and shall remove its own equipment and return equipment furnished by County pursuant to this Agreement. Upon termination of this Agreement, SUMMIT shall surrender the then-current Food Preparation Equipment to County in the condition as it was delivered on the Commencement Date (or, if later, in the condition in which such Food Preparation Equipment was placed into service), excepting ordinary wear and tear, damage resulting from County's failure to maintain the Food Preparation Equipment and other damage (including damage caused by force majeure) for which SUMMIT is not responsible hereunder.
- 8.5 Continuing Obligations. The termination of this Agreement shall not affect the rights, privileges, or liabilities of the Parties as they exist as of the effective date of termination. All outstanding amounts owed to SUMMIT shall become due and payable as soon as is practicable under current County payment cycles.

9. INDEMNIFICATION; INSURANCE

9.1 Insurance. Both County and SUMMIT shall maintain their own insurance on their respective real property, equipment and contents. Upon request, evidence of such insurance shall be provided in the form of a certificate of insurance.

A. County Insurance. County shall procure and maintain insurance for the Premises, the Food Preparation Equipment and any Smallwares, Servicewares and food and beverage inventory against all loss or damage as insured against under a commercial property cause of loss – special form policy (or any successor policy form).

B. SUMMIT Insurance. The SUMMIT 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 SUMMIT, 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 SUMMIT without regard to this Contract, whichever are greater:

1. Worker's Compensation Insurance as prescribed by the laws of the state where the Premises are located; and
 2. Commercial General Liability
 - a. Property Damage \$1,000,000.00, per occurrence
 - b. General Liability & bodily injury \$2,000,000.00, per occurrence
- \$2,000,000 - Minimum, Annual Aggregate

Coverage shall include personal injury, bodily injury and property damage for Premises/Operations Liability, Products/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.

3. Business Automobile Liability

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

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

4. Professional Liability - \$1,000,000 per occurrence:

- Obtain professional liability insurance covering the negligent acts, errors, or omissions of professional in connection with the performance of services to the County. If the professional liability insurance is a claims made policy, it will require a minimum of three years tail coverage, or, should SUMMIT discontinue coverage either during the term of this contract or within three years of completion, SUMMIT agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.
5. All insurance policies shall provide coverage on an occurrence basis. Claims made policies will not be accepted. If it is a Professional Liability policy and is a "claims-made" policy, it will require a minimum of three years tail coverage. All insurance requirements shall apply equally to SUMMIT's subcontractors.
 6. Additional Insureds. The County, its departments, elected and appointed officials, employees, agents and volunteers shall be named as additional insureds on SUMMIT's and SUMMIT's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by SUMMIT and subcontractor, whichever is greater, and all coverage shall be primary and non-contributory. A statement of additional insured status on a Certificate of Insurance shall not satisfy these requirements; endorsements must be included with the Certificate.
 7. Primary, and Non-contributory Insurance. SUMMIT 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 not contributory to such insurance policies. SUMMIT's insurance must be endorsed to show primary and non-contributory coverage.
 8. Waiver of Subrogation. SUMMIT hereby agrees to a waive subrogation with respect to each insurance policy required under this Contract. When required by an insurer, or if a policy condition does not permit SUMMIT to enter into a pre-loss agreement to waive subrogation without an endorsement, then SUMMIT 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 SUMMIT enter into such a waiver of subrogation on a pre-loss basis.
 9. Certificates and Endorsements: A Certificate of insurance, that identifies the County, its employees, officials, agents and volunteers as additional insureds, is attached hereto as Exhibit "C". This insurance shall be considered primary and shall waive all rights of subrogation. The County insurance shall be noncontributory. The Certificate alone is insufficient proof of insurance requirements. Endorsements must be attached with the Certificate. The Contractor must submit the Certificate and endorsement as described under this Insurance provision to the County prior to the commencement of any work on this project. The County does not waive any Insurance requirements by the Contractor even in the event the Insurance Certificate and endorsements provided by the Contractor are insufficient or inadequate proof of coverage but not objected to by the County. The Insurance policy shall provide coverage on an occurrence basis.

10. The County must be notified immediately of any cancellation of the policy, expiration or change in insurer carrier. SUMMIT shall immediately provide to the County copies of the Certificate and endorsements when there is a change in insurance carrier or when the policy is renewed so that the County maintains a current copy of the Certificate and endorsements throughout the duration of the contract.
11. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirement under this Contract.
12. Indemnification by SUMMIT. To the fullest extent permitted by law, SUMMIT 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 SUMMIT, its employees, agents or volunteers or SUMMIT'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 SUMMIT's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of SUMMIT shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.
13. In the event of concurrent negligence of SUMMIT, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of SUMMIT shall be valid and enforceable only to the extent of the negligence of SUMMIT, its subcontractors, employees, and agents. This indemnification obligation of SUMMIT 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 SUMMIT hereby expressly waives any immunity afforded by such acts.
14. The foregoing indemnification obligations of SUMMIT are a material inducement to County to enter into this Agreement, are reflected in SUMMIT's compensation, and the parties further acknowledge that they have mutually negotiated this waiver.
15. 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.
16. 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 SUMMIT's indemnity obligations under this Agreement.
17. In the event SUMMIT enters into subcontracts to the extent allowed under this Contract, SUMMIT's subcontractors shall indemnify the County on a basis equal to or exceeding SUMMIT's indemnity obligations to the County.

18. SUMMIT 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.
19. SUMMIT agrees all of SUMMIT's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

10. GENERAL AGREEMENT TERMS

- 10.1 Confidentiality. Neither County, nor County's employees or agents, shall disclose, photocopy, duplicate or use, either during or after the term of this Agreement, any Proprietary, Confidential and Trade Secret Information, without SUMMIT's prior written permission. All Proprietary, Confidential and Trade Secret Information shall remain SUMMIT exclusive property. County's access or use of SUMMIT Proprietary, Confidential and Trade Secret Information or Software shall not create any right, title, interest or copyright in such Information or Software. If County is requested to disclose any of the Confidential Information to any third party for any reason, County shall provide SUMMIT with prompt notice of such request(s). Upon termination of this Agreement, County shall return all SUMMIT Proprietary, Confidential and Trade Secret Information in County's possession relating to SUMMIT's services pursuant to this Agreement. County agrees that upon breaching this provision, SUMMIT shall be entitled to equitable relief, including injunction or specific performance, in addition to all other available remedies. This provision shall survive the termination of the Agreement.
- 10.2 Intellectual Property. Nothing in this Agreement is intended to grant any rights to County under any patent, copyright, trademark, trade name, trade secret or other proprietary right of SUMMIT (whether now owned or hereafter developed or acquired), all of which are reserved to SUMMIT.
- 10.3 Public Records Act. This Contract and all public records associated with this Contract shall be available from the County 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.

10.4 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

10.5 HIPAA Compliance. The parties agree to abide by applicable HIPAA requirements.

10.6 Independent Contractor Relationship. It is mutually understood and agreed, and it is the intent of the Parties, that an independent contractor relationship is hereby established under the terms and conditions of this Agreement. Employees of SUMMIT are not, nor shall they be deemed to be, employees of County. Employees of County are not, nor shall they be deemed to be, employees of SUMMIT.

10.7 Notice. Any notice required under this Agreement shall be deemed to have been sufficiently provided when delivered by hand, or three days after being sent by certified or registered mail return receipt requested, or by overnight delivery service with receipt of delivery, provided such delivery is to the parties at the following addresses:

Wendy Jones, Chief

Whatcom County Sheriff's Office

Public Safety Building

311 Grand Avenue

Bellingham, WA 98225

360-778-6506

wjones@co.whatcom.wa.us

SUMMIT

ATTN: CEO

500 East 52nd Street

Sioux Falls, SD 57104

10.8 Excused Performance. If performance of any terms or provisions hereof (other than the payment of monies) shall be delayed or prevented because of compliance with any law, regulation, decree or order by any federal, state, or local court, governmental agency or governmental authority, or because of riot, war, public disturbance, strike, lockout, differences with workmen, fire, flood, Act of God or any other reason whatsoever, which is not within the control of the party whose performance is interfered with, and which, by the exercise of reasonable diligence said party is unable to prevent, the party so suffering may at its option, suspend, without liability, the performance of its obligations hereunder (other than the payment of monies) during the period such cause continues except that Summit is obligated, under the specific terms of their bid response, to be prepared to respond, in a reasonable manner to all emergency situations including man made or natural disasters. It is anticipated that the County and Summit will work in cooperation should such an event occur.

10.9 Assignment or Transfer. Neither party may assign or transfer this Agreement, or any part thereof, without written consent of the other party. Such consent shall not be unreasonably withheld. Provided, however, that this shall not apply to SUMMIT's transfer to a parent, sister or successor SUMMIT where SUMMIT provides County at least thirty (30) days written notice.

10.10 Entire Agreement; Waiver. This Agreement, including any Exhibits hereto, constitutes the entire Agreement between the Parties with respect to the provisions of SUMMIT's services, and there are no other or further written or oral understandings or agreements with respect thereto except

as otherwise set forth herein. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of SUMMIT and County. This Agreement supersedes all other agreements between the Parties or their predecessors for the provision of SUMMIT Food Services.

- 10.11 Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which shall be effective upon delivery and, thereafter, shall be deemed to be an original, and all of which shall be taken as one and the same instrument with the same effect as if each party had signed on the same signature page. This Agreement may be transmitted by fax or by electronic mail in portable document format ("PDF") and signatures appearing on faxed instruments and/or electronic mail instruments shall be treated as original signatures.
- 10.12 Disputes: 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.
- 10.13 Limitation of Liability. Company's entire liability and Client's exclusive remedy for damages arising out of or related to this Agreement or the Food Services shall not exceed the amount of insurance coverage required by Summit in this Agreement. COMPANY SHALL NOT BE LIABLE FOR LOSS OF BUSINESS, BUSINESS INTERRUPTION, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR FOR LOSS OF REVENUE OR PROFIT IN CONNECTION WITH THE PERFORMANCE OR FAILURE TO PERFORM THIS AGREEMENT, REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM BREACH OF CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY. SUMMIT SHALL ONLY BE LIABLE FOR COUNTY'S ACTUAL DAMAGES AND COSTS, INCLUDING ATTORNEY'S FEES, FOR LIABILITY ARISING FROM BREACH OF CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY.
- 10.14 Severability. Any term or provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation.

10.15 Authority. SUMMIT and County represent that the individual executing this Agreement has been duly and validly authorized to execute this Agreement on each party's respective behalf with the full power and authority under all applicable laws and respective articles of incorporation, bylaws or other governing instrument to enter into this Agreement and to perform their obligations hereunder.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused their appointed and duly assigned officers to execute this Agreement.

COUNTY

Signature: [Signature]
Name: Wendy Jones
Title: Chief Corrections Deputy
Date: 11/13/19

SUMMIT

Signature: [Signature]
Name: MARLIN C SEJNOHA, JR
Title: President and CEO
Date: 11/8/2019

WHATCOM COUNTY:

Recommended for Approval:

[Signature] 11/14/19
Bill Elfo, Sheriff Date

Approved as to form:

[Signature] 11/20/19
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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 _____.



Exhibit "C"

CERTIFICATE OF LIABILITY INSURANCE

9/1/2020

DATE (MM/DD/YYYY)

11/20/2019

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

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

PRODUCER Lockton Companies 3280 Peachtree Road NE, Suite #250 Atlanta GA 30305 (404) 460-3600	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED 1364746 Summit Food Service, LLC 500 E 52nd Street N Sioux Falls SD 57104	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Gemini Insurance Company		10833
	INSURER B : Sentry Insurance a Mutual Company		24988
	INSURER C : Sentry Casualty Company		28460
	INSURER D : Landmark American Insurance Company		33138
	INSURER E : XL Insurance America, Inc.		24554
INSURER F :			

COVERAGES

CERTIFICATE NUMBER: 16422869

REVISION NUMBER: XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	N	90-18840-06	9/1/2019	9/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B B A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> Drive Other <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	90-18840-04 (AOS) 90-18840-05 (MA) GVE100207902(1X1)	9/1/2019 9/1/2019	9/1/2020 9/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX Excess Limit \$ 1,000,000
E	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED <input type="checkbox"/> RETENTION \$ 0	<input checked="" type="checkbox"/> OCCUR	N	US00086357L119A	9/1/2019	9/1/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX
B C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	90-18840-01 90-18840-02 (Retro)	9/1/2019 9/1/2019	9/1/2020 9/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Liquor Liability	N	N	90-18840-06	9/1/2019	9/1/2020	\$1,000,000/\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is included as an Additional Insured as respect General Liability Coverage as required by written contract subject to policy terms, conditions and exclusions. Certificate holder is included as an Additional Insured as required by written contract subject to policy terms, conditions and exclusions.

CERTIFICATE HOLDER

16422869

Whatcom County Sheriff's Office
311 GRAND AVE STE B2
BELLINGHAM WA 98225-4038

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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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: AB2019-618

File ID:	AB2019-618	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	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:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Summit Food Service for Commissary Services to inmates at the Whatcom County Jail

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attachment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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WHATCOM COUNTY
SHERIFF'S OFFICE

BILL ELFO
SHERIFF



PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4038
(360) 778-6600

MEMORANDUM

TO: Jack Louws, County Executive
FROM: Bill Elfo, Sheriff
RE: Jail Commissary Services Contract
DATE: November 13, 2019

Enclosed are two (2) originals of a contract for Jail Commissary Services between Summit Food Service and Whatcom County for your review and signature.

▪ **Background and Purpose**

Summit Food Service will replace Aramark Food Service in 2020 after being awarded the bid via the RFP process. They will operate and manage Commissary services and provide indigent hygiene items for offenders. They will pay the County 40% commission on total net sales.

▪ **Funding Amount and Source**

The sole expenditures are for indigent hygiene items for those offenders without funds and that cost is deducted from the revenues generated from commissary sales.

▪ **Differences from Previous Contract**

This is a new contract.

Please contact Laurie Reid at extension 6506, if you have any questions or concerns regarding the terms of this agreement.

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	Sheriff's Office
Division/Program: (i.e. Dept. Division and Program)	Corrections/In Custody
Contract or Grant Administrator:	Laurie Reid
Contractor's / Agency Name:	Summit Food Service
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 checked="" type="radio"/> No <input type="radio"/> If yes, RFP and Bid number(s): 19-56 Cost Center: 118000	
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"/> 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): \$ 40% Commission This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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: Summit Food Service was awarded the bid for Jail Commissary Services. They will provide a large selection of food, candy and non-alcoholic beverages, as well as health and drug items and general merchandise, including quality brand name products all of which shall be subject to the approval of the County. The County will receive 40% commission on net sales.	
Term of Contract: 1 year Expiration Date: 12/31/2020	

Contract Routing:	1. Prepared by: LR	Date: 11/13/19
	2. Attorney signoff: _____	Date: 11/20/19
	3. AS Finance reviewed: <u>MD</u>	Date: 11/15/19
	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: _____

WHATCOM COUNTY AND SUMMIT FOOD SERVICES COMMISSARY PARTNERSHIP AGREEMENT

This Commissary Agreement is made and entered into by and between Whatcom County, on behalf of the Whatcom County Sheriff's Office ("County") and Summit Food Service a New Mexico Limited Liability Company ("SUMMIT" aka "Contractor") (collectively "the Parties").

1. TERM AND INTENT

- 1.1 County grants SUMMIT the exclusive right to provide Commissary Services at the Premises.
- 1.2 This Agreement shall commence on January 1, 2020 (the "Commencement Date") or sooner if mutually agreed upon in writing by both of the Parties. The Agreement will remain in effect through December 31, 2020. The Agreement shall renew annually for four additional years, unless either party provides written notice of termination to the other party at least ninety (90) days prior to the expiration date or unless this Agreement is otherwise terminated as set forth herein.

2. DEFINITIONS

- 2.1. Accounting Period. SUMMIT's accounting calendar is based on an accounting cycle consisting of three (3) rotational periods of four (4) weeks, four (4) weeks, five (5) weeks.
- 2.2. Agreement. In order of precedence: (i) this Commissary Food Service Partnership Agreement, Exhibits and Schedules, as amended and, where specifically included by reference, (ii) the SUMMIT's Proposal and (iii) the Solicitation.
- 2.3. Food Preparation Equipment. Equipment or appliances reasonably necessary for a Commissary Food Program including, within budgetary limitations, stove, oven, sink, refrigerator, microwave, mixer, steamer, slicer, freezer and fire extinguishing equipment that is in good condition and of a commercial grade.
- 2.4. Commissary Food Program. Operations and Products to be provided by SUMMIT in accordance with this Agreement related to the preparation, service and sale of food, beverages, goods, merchandise and other items at the Premises.
- 2.5. Commissary Food Program Facilities. Space for SUMMIT to prepare and perform Food at the Premises including, within budgetary limitations, kitchen, office and storage areas.
- 2.6. Governmental Rule. Any statute, law, rule, regulation, ordinance or code of any governmental entity (whether federal, state, local or otherwise).
- 2.7. Office Equipment. All office items reasonably necessary for SUMMIT staff to perform office-related functions at the Premises including, within budget limitation, furniture (e.g. desk, chair, file cabinet), equipment (e.g., phone, data/high speed internet lines).
- 2.8. PCI Standards. All rules, regulations, standards or guidelines adopted or required by the Payment Card Industry Security Standards Council relating to privacy, data security and the safeguarding, disclosure and handling of Payment Instrument Information.

- 2.9. Premises. The County's facilities located at 311 Grand Avenue, Bellingham, WA 98225 and 2030 Division Street Bellingham WA 98226
- 2.10. Products. Food, beverages, goods, merchandise, and supplies.
- 2.11. Proprietary, Confidential and Trade Secret Information. Items used in SUMMIT Commissary services (owned by or licensed to SUMMIT) including, , menus, signage, surveys, Software (i.e. menu systems, food production systems, accounting systems), recipes, management guidelines and procedures, operating manuals, personnel information, purchasing and distribution practices, pricing and bidding information, financial information, provided, however that the following items are specifically excluded: (i) information generally available to and known by the public or (ii) information independently developed or previously known by the County. Provided any information covered under Washington State Public Disclosure Act will be subject to the requirement of that act (see section 10.3 Public Records Act.) and; provided, that the following items are specifically excluded: (i) information generally available to and known by the public or (ii) information independently developed or previously known by the County. Also provided that the County and the State have access to any and all financial records pertaining to this agreement for purposes of auditing.
- 2.12. Servicewares. Items used in the service of food and beverages including, within budget limitation, eating utensils, disposables, trays, and carts.
- 2.13. Smallwares. Items used in the preparation of food including, within budgetary limitation, pots, pans and kitchen utensils.
- 2.14. Supervisory Employee. Those persons who have directly or indirectly performed management or professional services on behalf of SUMMIT for the County at any time during this Agreement including, without limitation, any corporate employee, manager, assistant manager, chef, lead cook or dietitian.
- 2.15. Utilities and Amenities. All utilities reasonably requested by SUMMIT to provide commissary Food Services at the Premises including, within t reasonable limitation, heat, hot and cold water, gas, refrigeration, lights, electric current, ventilation, air conditioning, recycling, cooking waste removal, hazardous waste removal, garbage removal services, exterminator services, telephone services, internet access, and sewage disposal services.

3. COMMISSARY SERVICES

- 3.1 Summit Responsibilities. Summit agrees to perform the following responsibilities:
- A. Summit shall operate and manage Commissary services hereunder in a professional manner and supply with merchandise of good quality.
 - B. Summit employees will be responsible for accepting delivery of, sorting, transporting, and delivering commissary items to both Corrections Facilities. Short and long term storage for commissary items will be primarily at the Work Center, but Summit may elect to use dry storage areas currently used for Jail Food Service.
 - C. Summit will also provide their "outside-inside" connection program and will use the County kitchen to prepare any fresh food items.
 - D. Summit commissary employees will follow the process outlined in their bid to obtain signatures of the correct offender on all commissary receipts and forward the signed receipts to the County Finance Department. Summit will verify the Offenders identity by checking the

offender's wristband prior to delivery of the items.

- E. Summit will provide indigent items for offenders. They will be listed individually so that offenders can order only what they need. Proof of the offender receiving the items will also be forwarded to County Finance so that costs can be posted to the offender's account. The manner in which that information is memorialized will be mutually agreed upon. The County will pay for indigent items delivered and signed for.
- F. Summit may use offender labor for commissary services. The offender's will remain under Summit's direct observation and supervision while working.
- G. Under no conditions will tobacco or vaping products or items containing Ethanol be included on the commissary lists.
- H. Summit agrees to comply with all local, state and federal laws and regulations governing the operation of the commissary.
- I. All persons employed by Summit will be the employees of Summit and not of County. Summit, in performing work required by this Agreement, shall not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin or age, in violation of local, state or federal laws. Summit will comply with applicable local, state and federal laws and regulations pertaining to the wages and hours of employment.
- J. Summit agrees to supply the County at no cost a commissary system as required to perform the tasks required, provided the commissary system will remain Summit property after Termination of the Agreement. As part of the commissary system, Summit shall provide two (2) lobby kiosks for visitors to deposit money directly into inmate accounts. One (1) kiosk will be at the Downtown jail and one (1) at the Work Center. Summit will also provide software updates as they become available. Any training required by the installation of software enhancements will be provided by Summit at no cost.
- K. Summit shall work with County to maintain conditions of sanitation and cleanliness. An objective evaluation of the condition of the kitchen/food prep and storage areas will be the passing of Routine Health Department Environment Health Inspections.

3.2 County's Responsibilities. County agrees to perform the following responsibilities:

- A. County shall, without cost to Summit, provide Summit with the necessary space for the operation of Services, and shall furnish, without cost to Summit, all utilities, facilities, equipment and security for Summit personnel for the efficient performance of this Agreement including, but not limited to, the following: lights, electric current, heat, refrigeration, garbage removal services, exterminator services, telephone services, internet access and facsimile services. Summit shall be responsible for long distance telephone service. County shall be responsible for providing access to existing internet and electrical hookups and access to software systems or local area networks used in the operation of the Commissary program or its connection to County's accounting system.
- B. Internet Access. If Summit is to implement a point-of-sale system, County will allow Summit to use County's existing internal network cabling to designated locations throughout both facilities. To the extent Summit installs and maintains its

own POS System, County shall provide access to existing electrical outlets. County shall allow Summit and the internet provider physical access to the area where a high-speed internet connection will be installed, and shall permit Summit's installation of a router and dedicated high-speed internet circuit with full administrative control to establish a connection between the Commissary workstations and Summit's network. The County assumes no costs and will not provide cabling in the event Summit does not wish to use the established wired network cables.

1. Installation of any of the aforementioned equipment as well as any software updates that may affect county infrastructure will be coordinated with the County IT department.
 2. Summit will immediately notify the County if they discover any evidence of a system breach of their programs so that the County IT can take security precautions to minimize the possibility of the breach to the County systems. Conversely, the County will immediately notify Summit if they become aware of any cyber risk to Summit's software programs.
- C. At its own expense, County will maintain, repair, replace, and keep in safe operating condition said utilities, facilities and equipment, such that no Summit employee is exposed to or subjected to any unsafe situation that would violate the Occupational Safety and Health Act ("OSHA") or any other similar federal, state or local law or regulation. Summit shall have the right to effect equipment repairs or replacements at County's expense if, within a reasonable amount of time after receiving notice, County fails to make necessary repairs or replacement to essential equipment that becomes inoperative, hazardous or inefficient to operate or interferes with Summit's ability to provide Services in a safe and sanitary manner. Summit shall be entitled to assert a security interest in any equipment that it purchases or repairs under this section and shall retain title to equipment purchased hereunder. Provided: SUMMIT will utilize the County Jail purchasing system and submit written requests for additional or replacement items and/or the County's work order system for the repair/replacement of equipment. Replacement or additional supplies are subject to the County's approved budget restrictions. Failure to utilize these systems prior to SUMMIT purchasing or arranging for repairs to the item(s) will void the obligation of the County to reimburse SUMMIT for costs associated with purchase or repair.
- D. Any change or addition requested by the County to modify the commissary software that is specific to this location shall be paid for by the County. After the initial training period, any costs incurred by Summit for travel for training for the County specific modifications shall be paid for by the County. All County instigated changes must be approved by the Chief Corrections Deputy or her designee prior to implementing the change(s). When necessary, SUMMIT will provide alternative ordering processes for offenders who are on phone restrictions. This will include providing hard copy menus of the commissary items at SUMMIT's expense and handing out, collecting and transferring the order to the warehouse by SUMMIT personnel.
- E. The County represents and warrants that it has and will maintain all required licenses and permits, necessary to operate the Premises. The County represents and warrants that the Premises is in compliance and will remain in compliance with local, state, and

federal laws and regulations as it relates to these commissary services. The County agrees to notify Summit immediately upon receiving notice of loss of any such permit or license.

- F. For the purpose of this Section 3, "Supervisory Employees" shall be defined as those persons who have directly or indirectly performed management or professional services on behalf of Summit on behalf of County at any time during this Agreement. County acknowledges that Summit has invested considerable amounts of time and money in training its Supervisory Employees, in the systems, procedures, methods, forms, reports, formulas, computer programs, recipes, menus, plans, techniques and other valuable information, all of which is proprietary and unique to Summit. Therefore, the County agrees that during the Supervisory Employee's employment with Summit and for a period of twelve (12) months thereafter no Supervisory Employees of Summit will be hired by County nor any facility affiliated with County, nor will County permit employment of Summit Supervisory Employees on County's Premises or the Premises of any facility affiliated with County, whether as an individual or as owner, partner, majority stockholder, director, officer or employee of a food service provider. County agrees that if it violates this contract provision, County shall pay to Summit, and Summit shall accept as liquidated damages and not as a penalty, an amount equal to the annual salary (including costs of all benefits) of the Supervisory Employee(s) hired by or allowed to work with County in violation of the terms of this Agreement. Summit shall be entitled to pursue all other remedies available under federal, state, or local law.
- G. County shall pay all real estate taxes with respect to the Premises, and County shall pay all personal property taxes and similar taxes with respect to County's equipment located on the premises.

4. EMPLOYEES

- 4.1. Employees. SUMMIT shall hire employees necessary for its performance of this Agreement. Persons employed by SUMMIT will be the employees of SUMMIT and not of County. SUMMIT's employees and agents shall comply with applicable rules and regulations concerning conduct on the County's premises which the County imposes upon its employees and agents provided such rules and/or regulations are not in violation of any federal, state, and/or local laws. County agrees to provide SUMMIT notice of any proposed changes in rules, at least thirty (30) days prior to implementation. SUMMIT will consider County's written requests to remove Food Service employees, provided such requests are non-discriminatory and comply with all laws and regulations governing employment. The County retains the rights to require all new employees be approved for jail access in advance of their first day or work; provided that every effort will be made on the County's part to expedite such approval. The County also retains the right to pull access for any new or current Summit Employee if, in the judgement of the County, allowing the employee access to the facilities would constitute a danger to the safety, health and/or security of the facility. In the event that facilities access was denied or recalled, this shall not constitute a personnel action on the part of the County against the Summit employee.
- 4.2. The County Sheriff's Office is a drug free work site and any Summit employee suspected of being under the influence of illegal drugs of any kind will be ordered off the premises.

- 4.3. Existing Employees; Employment Terms; Employee Pension and Benefit Plans With the exception of the current Food Service Manager, SUMMIT in its sole discretion may elect to hire any managers or employees of County or County's incumbent foodservice provider (collectively, "Existing Employees") who are qualified, available and willing to provide Food Service at the Premises. SUMMIT shall have the authority to establish the terms of employment for all current SUMMIT managers and employees (including Existing Employees that SUMMIT may elect to hire in connection with this Agreement).
- 4.4. Wages and Hours. SUMMIT shall comply with all applicable federal, state and local laws and regulations pertaining to the wages and hours of employment for SUMMIT's employees.
- 4.5. Payroll Taxes. SUMMIT shall be responsible for all withholding and payroll taxes relative to SUMMIT's employees.
- 4.6. Background Checks. SUMMIT shall conduct necessary background checks as required by law.
- 4.7. Equal Opportunity and Affirmative Action Employer. SUMMIT abides by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their age, race, color, religion, sex, sexual orientation or national origin. SUMMIT employs and promotes individuals without regard to age, race, color, religion, sex, national origin, protected veteran status or disability.
- 4.8. Non-Hire. County acknowledges that SUMMIT has invested considerable amounts of time and money in training its Supervisory Employees. Therefore, the County agrees that during the Supervisory Employee's employment with SUMMIT and for a period of twelve (12) months thereafter no Supervisory Employees of SUMMIT will be hired by County nor any facility affiliated with County, nor will County permit employment of SUMMIT Supervisory Employees on County's Premises or the Premises of any facility affiliated with County. County agrees that if it violates this provision, County shall pay to SUMMIT, and SUMMIT shall accept as liquidated damages and not as a penalty, an amount equal to one time the annual salary) of the Supervisory Employee(s) hired by or allowed to work with County in violation of the terms of this Agreement. SUMMIT shall be entitled to pursue all other remedies available under federal, state, or local law. This provision shall survive the termination of this Agreement.

5. PREMISES, FACILITIES, UTILITIES AND EQUIPMENT

- 5.1. Premises. The Premises shall be in good condition and maintained by the County to ensure compliance with applicable Governmental Rules and to enable SUMMIT to perform its obligations hereunder. County shall be responsible for any modifications or alterations to the workplace or the Premises necessary to comply with any applicable Governmental Rules. SUMMIT shall have no obligation to maintain or repair the Premises.
- 5.2. Equipment. Without limiting the foregoing, County shall permit SUMMIT to use all of the County's Food Preparation Equipment in the performance of Food Service. The Food Preparation Equipment provided by County shall be commercial grade, in good condition and shall be maintained, repaired and replaced by County to permit the performance of the Food Service and to ensure compliance with applicable Governmental Rules. SUMMIT and County shall inventory County's current Equipment within thirty (30) days after the Commencement Date. SUMMIT shall take reasonable care of all Food Preparation Equipment under its custody and control,

provided that the foregoing shall not limit County's obligation to maintain, repair and replace (as necessary) the Food Preparation Equipment.

- 5.3 Facilities, Utilities. At its own expense, County shall maintain, repair, replace, and keep in safe operating condition said Facilities and Utilities, to permit the performance of the Food Service and to ensure compliance with Governmental Rules.
- 5.4 Smallwares and Servicewares. At its own expense, County shall furnish SUMMIT with the appliances, wares and equipment reasonably requested by SUMMIT including all Cooking Equipment, Smallwares and Servicewares. SUMMIT will utilize the County Jail purchasing system and submit written requests for additional or replacement items. Replacement or additional supplies are subject to the County's approved budget restrictions.

6. TAXES

- 6.1 Taxes. SUMMIT shall be responsible for collecting and remitting sales tax on applicable sales collected by SUMMIT. Unless County provides documentation of County's federal and state tax-exempt status to the SUMMIT's sole satisfaction, County shall reimburse SUMMIT for state and local sales tax on the full amount of charges and fees billed to the County. County shall secure and pay all federal, state and local property, excise and income and other taxes and fees required for the Premises and resulting from the Food Services provided for hereunder. County shall immediately pay for any tax assessments including interest, penalties, costs and expenses, which are assessed against the Food Service operation and were not in effect as of the Commencement Date or were owed but unpaid as of the Commencement Date. County shall notify SUMMIT promptly should its sales tax status be changed.

7. FINANCIAL ARRANGEMENTS

- 7.1 Payment Arrangement.
- A. SUMMIT shall be entitled to retain amounts paid in conjunction with services provided to the Commissary. In exchange, Summit will pay County a monthly commission equivalent to forty percent (40%) of Net Sales at the Premises. Net Sales shall be defined as Gross Sales minus Sales Tax minus postage sales.
 - B. SUMMIT will pay a commission of 30% on all gift bags and 30% on the Hot Food Program.
 - C. SUMMIT shall provide the County monthly an operating statement which shall detail the revenue based on the operation of the commissary.
 - D. SUMMIT and County shall review the costs for service on no less than an annual basis to determine adjustments in operating costs. Summit reserves the right to adjust the retail prices on the commissary price list to reflect any increase in cost, and to ensure the financial objectives of this Agreement. Provided that commissary prices will reflect the requirement of the RFP that prices will be comparable to prices in local convenience stores.
- 7.2 Payments Due and Late Payment Penalty. SUMMIT shall issue an invoice at the end of each Week showing the amounts due. County shall pay the full invoice amount within thirty (30) days from the issuance of the invoice.

- 7.3 Change in Conditions. The financial terms set forth in this Agreement, and all other obligations assumed by SUMMIT hereunder, are based on conditions in existence on the date SUMMIT commences operations including, without limitation, population; labor costs; applicable Governmental Rules; food and supply costs; provision of equipment and utilities; state of the Premises; and federal, state and local sales, use and excise taxes (the "Conditions"). Further, County acknowledges that in connection with the negotiation and execution of this Agreement, SUMMIT has relied upon County's representations regarding existing and future conditions (the "Representations"). In the event of change in the Conditions, inaccuracy of the Representations, or if County requests any significant change in the commissary services as provided under this Agreement, the financial terms and other obligations assumed by SUMMIT shall be renegotiated to reflect a proportionate increase in SUMMIT's charges to the County. SUMMIT will provide a thirty (30) day notice of such increased charges. Any changes must be with the mutual agreement of both the County and Summit and be filed as an amendment to this agreement prior to the increases taking place. Increased charges unilaterally billed will not be honored.
- 7.4 Attorney's Fees and Costs. County shall pay all uncontested costs of collecting any amount due SUMMIT, including attorney's fees and all costs and other expenses incurred by SUMMIT in collecting an indebtedness of County. This provision shall survive the termination of the Agreement.

8. TERMINATION OF THE AGREEMENT

- 8.1 Termination for Non-Performance. If either party refuses, fails or is unable to perform or observe any of the terms or conditions of this Agreement for any reason other than for Excused Performance as set forth in this Agreement, the party claiming such deficiency shall provide the breaching party written notice of any such breach. The breaching party will have fifteen (15) days in the case of a breach, or a reasonable time where cure is not possible within fifteen (15) days (collectively the "Notice Period"), the notice shall be null and void. If the breaching party fails to remedy the breach within the Notice Period, or within another time frame that is mutually acceptable, the party giving notice may cancel the Agreement after the end of the Notice Period.
- 8.2 Termination for Financial Insecurity. If either Party makes an unauthorized assignment for the benefit of creditors, files a petition under the bankruptcy or insolvency laws of any jurisdiction, has or suffers a receiver or trustee to be appointed for its business or property, or is adjudicated a bankrupt or an insolvent, the other party may terminate the Agreement with three (3) days' notice. Provided, however, that both parties agree to provide the other entity thirty (30) days' notice before filing a petition for bankruptcy.
- 8.3 Voluntary Termination. At any time after one year of service, either Party may terminate this Agreement with or without cause by written notice to the other party given not less than sixty (60) days prior to the effective date of termination.
- 8.4 Steps Upon Termination. Upon the termination or expiration of this Agreement, SUMMIT shall vacate the Premises occupied by SUMMIT and shall remove its own equipment and return equipment furnished by County pursuant to this Agreement. Upon termination of this Agreement, SUMMIT shall surrender the then-current Food Preparation Equipment to County in the condition as it was delivered on the Commencement Date (or, if later, in the condition in

which such Food Preparation Equipment was placed into service), excepting ordinary wear and tear, damage resulting from County's failure to maintain the Food Preparation Equipment and other damage (including damage caused by force majeure) for which SUMMIT is not responsible hereunder.

- 8.5 Continuing Obligations. The termination of this Agreement shall not affect the rights, privileges, or liabilities of the Parties as they exist as of the effective date of termination. All outstanding amounts owed to SUMMIT shall become due and payable as soon as is practicable under current County Payment cycles.

9. INDEMNIFICATION; INSURANCE

- 9.1 Insurance. Both County and SUMMIT shall maintain their own insurance on their respective real property, equipment and contents. Upon request, evidence of such insurance shall be provided in the form of a certificate of insurance.

A. County Insurance. County shall procure and maintain insurance for the Premises, the Food Preparation Equipment and any Smallwares, Servicewares and food and beverage inventory against all loss or damage as insured against under a commercial property causes of loss – special form policy (or any successor policy form).

B. SUMMIT Insurance. The SUMMIT 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 SUMMIT, 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 SUMMIT without regard to this Contract, whichever are greater:

1. Worker's Compensation Insurance as prescribed by the laws of the state where the Premises are located; and
2. **Commercial General Liability**
 - a. Property Damage \$1,000,000.00, per occurrence
 - b. General Liability & bodily injury \$2,000,000.00, per occurrence

\$2,000,000 - Minimum, Annual Aggregate

Coverage shall include personal injury, bodily injury and property damage for Premises/Operations Liability, Products/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.

C. **Business Automobile Liability**

\$1, 000,000.00 Minimum, per occurrence

\$2,000,000.00 Minimum, Annual Aggregate

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

D. Professional Liability - \$1,000,000 per occurrence:

Obtain professional liability insurance covering the negligent acts, errors, or omissions of professional in connection with the performance of services to the County. If the professional liability insurance is a claims made policy, it will require a minimum of three years tail coverage, or, should SUMMIT discontinue coverage either during the term of this contract or within three years of completion, SUMMIT agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

- E. All insurance policies shall provide coverage on an occurrence basis. Claims made policies will not be accepted. If it is a Professional Liability policy and is a "claims-made" policy, it will require a minimum of three years tail coverage. All insurance requirements shall apply equally to SUMMIT's subcontractors.
- F. Additional Insureds. The County, its departments, elected and appointed officials, employees, agents and volunteers shall be named as additional insureds on SUMMIT's and SUMMIT's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the SUMMIT and subcontractor, whichever is greater, and all coverage shall be primary and non-contributory. A statement of additional insured status on a Certificate of Insurance shall not satisfy these requirements; endorsements must be included with the Certificate.
- G. Primary, and Non-contributory Insurance. SUMMIT 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 not contributory to such insurance policies. SUMMIT's insurance must be endorsed to show primary and non-contributory coverage.
- H. Waiver of Subrogation. SUMMIT hereby agrees to a waive subrogation with respect to each insurance policy required under this Contract. When required by an insurer, or if a policy condition does not permit SUMMIT to enter into a pre-loss agreement to waive subrogation without an endorsement, then SUMMIT 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 SUMMIT enter into such a waiver of subrogation on a pre-loss basis.
- I. Certificates and Endorsements: A Certificate of insurance, that identifies the County, its employees, officials, agents and volunteers as additional insureds, is attached hereto as Exhibit "C". This insurance shall be considered primary and shall waive all rights of

subrogation. The County insurance shall be noncontributory. The Certificate alone is insufficient proof of insurance requirements. Endorsements must be attached with the Certificate. The Contractor must submit the Certificate and endorsement as described under this Insurance provision to the County prior to the commencement of any work on this project. The County does not waive any Insurance requirements by the Contractor even in the event the Insurance Certificate and endorsements provided by the Contractor are insufficient or inadequate proof of coverage but not objected to by the County. The Insurance policy shall provide coverage on an occurrence basis.

- J. The County must be notified immediately of any cancellation of the policy, expiration or change in insurer carrier. SUMMIT shall immediately provide to the County copies of the Certificate and endorsements when there is a change in insurance carrier or when the policy is renewed so that the County maintains a current copy of the Certificate and endorsements throughout the duration of the contract.
- K. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Contractor's insurance requirement under this Contract.
- L. Indemnification by SUMMIT. To the fullest extent permitted by law, SUMMIT 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 SUMMIT, its employees, agents or volunteers or SUMMIT'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 SUMMIT's or its subcontractors' use of, presence upon, or proximity to the property of County. This indemnification obligation of SUMMIT shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.
- M. In the event of concurrent negligence of SUMMIT, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of SUMMIT shall be valid and enforceable only to the extent of the negligence of SUMMIT, its subcontractors, employees, and agents. This indemnification obligation of SUMMIT 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 SUMMIT hereby expressly waives any immunity afforded by such acts.
- N. The foregoing indemnification obligations of SUMMIT are a material inducement to County to enter into this Agreement, are reflected in SUMMIT's compensation, and the parties further acknowledge that they have mutually negotiated this waiver.
- O. 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.

- P. 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 SUMMIT's indemnity obligations under this Agreement.
- Q. In the event SUMMIT enters into subcontracts to the extent allowed under this Contract, SUMMIT's subcontractors shall indemnify the County on a basis equal to or exceeding SUMMIT's indemnity obligations to the County.
- R. SUMMIT 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.
- S. SUMMIT agrees all SUMMIT's indemnity obligations shall survive the completion, expiration or termination of this Agreement.

10. GENERAL AGREEMENT TERMS

- 10.1 Public Records Act. This Contract and all public records associated with this Contract shall be available from the County 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.
- 10.2 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
- 10.3 Independent Contractor Relationship. It is mutually understood and agreed, and it is the intent of the Parties, that an independent contractor relationship is hereby established under the terms and conditions of this Agreement. Employees of SUMMIT are not, nor shall they be deemed to be, employees of County. Employees of County are not, nor shall they be deemed to be, employees of SUMMIT.
- 10.4 Notice. Any notice required under this Agreement shall be deemed to have been sufficiently provided when delivered by hand, or three days after being sent by certified or registered mail

return receipt requested, or by overnight delivery service with receipt of delivery, provided such delivery is to the parties at the following addresses:

Wendy Jones, Chief
Whatcom County Sheriff's Office
Public Safety Building
311 Grand Avenue
Bellingham, WA 98225
360-778-6505
wjones@co.whatcom.wa.us

SUMMIT
ATTN: CEO
500 East 52nd Street
Sioux Falls, SD 57104

- 10.5 Excused Performance. If performance of any terms or provisions hereof (other than the payment of monies) shall be delayed or prevented because of compliance with any law, regulation, decree or order by any federal, state, or local court, governmental agency or governmental authority, or because of riot, war, public disturbance, strike, lockout, differences with workmen, fire, flood, Act of God or any other reason whatsoever, which is not within the control of the party whose performance is interfered with, and which, by the exercise of reasonable diligence said party is unable to prevent, the party so suffering may at its option, suspend, without liability, the performance of its obligations hereunder (other than the payment of monies) during the period such cause continues. Except that Summit is obligated, under the specific terms of their bid response, to be prepared to respond, in a reasonable manner to all emergency situations including man made or natural disasters. It is anticipated that the County and Summit will work in cooperation should such an event occur.
- 10.6 Assignment or Transfer. Neither party may assign or transfer this Agreement, or any part thereof, without written consent of the other party. Such consent shall not be unreasonably withheld Provided, however, that this shall not apply to SUMMIT's transfer to a parent, sister or successor SUMMIT where SUMMIT provides County at least thirty (30) days written notice.
- 10.7 Entire Agreement; Waiver. This Agreement, including any Exhibits hereto, constitutes the entire Agreement between the Parties with respect to the provisions of SUMMIT's services, and there are no other or further written or oral understandings or agreements with respect thereto except as otherwise set forth herein. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the duly authorized officers of SUMMIT and County. This Agreement supersedes all other agreements between the Parties or their predecessors for the provision of SUMMIT Food Services.
- 10.8 Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which shall be effective upon delivery and, thereafter, shall be deemed to be an original, and all of which shall be taken as one and the same instrument with the same effect as if each party had signed on the same signature page. This Agreement may be transmitted by fax or by electronic mail in portable document format ("PDF") and signatures appearing on faxed instruments and/or electronic mail instruments shall be treated as original signatures.
- 10.9 Disputes: 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.

- 10.9 Limitation of Liability. SUMMIT's entire liability and County's exclusive remedy for damages arising out of or related to this Agreement or the Food Services shall not exceed the amount of insurance coverage required by Summit in this Agreement. SUMMIT SHALL NOT BE LIABLE FOR LOSS OF BUSINESS, BUSINESS INTERRUPTION, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR FOR LOSS OF REVENUE OR PROFIT IN CONNECTION WITH THE PERFORMANCE OR FAILURE TO PERFORM THIS AGREEMENT, REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM BREACH OF CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY. SUMMIT SHALL ONLY BE LIABLE FOR COUNTY'S ACTUAL DAMAGES FOR LIABILITY AND COSTS, INCLUDING ATTORNEY'S FEES, ARISING FROM BREACH OF CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY.
- 10.10 Severability. Any term or provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation.
- 10.11 Authority. SUMMIT and County represent that the individual executing this Agreement has been duly and validly authorized to execute this Agreement on each party's respective behalf with the full power and authority under all applicable laws and respective articles of incorporation, bylaws or other governing instrument to enter into this Agreement and to perform their obligations hereunder.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

Signature: [Signature]
Name: Wendy Jones
Title: Chief Corrections Deputy
Date: 11.13.19

Signature: [Signature]
Name: Marilyn C. Sejnoban
Title: President and CEO
Date: 11/8/2019

WHATCOM COUNTY:

Recommended for Approval:

[Signature] 11/14/19
Bill Elfo, Sheriff Date

Approved as to form:

[Signature] 11/20/19
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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 _____.

Exhibit "C"



CERTIFICATE OF LIABILITY INSURANCE

9/1/2020

DATE (MM/DD/YYYY)

11/20/2019

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

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

PRODUCER Lockton Companies 3280 Peachtree Road NE, Suite #250 Atlanta GA 30305 (404) 460-3600		CONTACT NAME: _____ PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____															
INSURED 1364746 Summit Food Service, LLC 500 E 52nd Street N Sioux Falls SD 57104		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Gemini Insurance Company</td> <td>10833</td> </tr> <tr> <td>INSURER B: Sentry Insurance a Mutual Company</td> <td>24988</td> </tr> <tr> <td>INSURER C: Sentry Casualty Company</td> <td>28460</td> </tr> <tr> <td>INSURER D: Landmark American Insurance Company</td> <td>33138</td> </tr> <tr> <td>INSURER E: XL Insurance America, Inc.</td> <td>24554</td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Gemini Insurance Company	10833	INSURER B: Sentry Insurance a Mutual Company	24988	INSURER C: Sentry Casualty Company	28460	INSURER D: Landmark American Insurance Company	33138	INSURER E: XL Insurance America, Inc.	24554	INSURER F:	
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INSURER F:																	

COVERAGES

CERTIFICATE NUMBER: 16422869

REVISION NUMBER: XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	Y	N	90-18840-06	9/1/2019	9/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> Drive Other <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	90-18840-04 (AOS) 90-18840-05 (MA) GVE100207902(1X1)	9/1/2019 9/1/2019 9/1/2019	9/1/2020 9/1/2020 9/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX Excess Limit \$ 1,000,000
E	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED <input type="checkbox"/> RETENTION \$ 0	N	N	US00086357L119A	9/1/2019	9/1/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	90-18840-01 90-18840-02 (Retro)	9/1/2019 9/1/2019	9/1/2020 9/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Liquor Liability	N	N	90-18840-06	9/1/2019	9/1/2020	\$1,000,000/\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is included as an Additional Insured as respect General Liability Coverage as required by written contract subject to policy terms, conditions and exclusions. Certificate holder is included as an Additional Insured as required by written contract subject to policy terms, conditions and exclusions.

CERTIFICATE HOLDER

16422869

Whatcom County Sheriff's Office
 311 GRAND AVE STE B2
 BELLINGHAM WA 98225-4038

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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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: AB2019-620

File ID:	AB2019-620	Version:	1	Status:	Agenda Ready
File Created:	11/21/2019	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Birch Bay Chamber of Commerce in support of the Birch Bay Visitor Center operations and promotion of annual multi-day events designed to encourage tourism in the amount of \$100,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached

HISTORY OF LEGISLATIVE FILE

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



MEMORANDUM

TO: Jack Louws, County Executive
FROM: Tawni Helms, Administrative Coordinator
RE: Birch Bay Chamber of Commerce
DATE: November 7, 2019

Enclosed are two (2) originals of a Contract for Services between Whatcom County and Birch Bay Chamber of Commerce for your review and signature.

▪ **Background and Purpose**

Contractor has received Convention Center funding to pay for the operations of the Birch Bay Visitor Center and the promotion and advertising of multi-day annual events.

▪ **Funding Amount and Source**

Funding in the amount of \$100,000 will come from the Convention Center Fund as recommended by the Lodging Tax Advisory Committee and presented for Whatcom County Council approval on November 6, 2019.

▪ **Differences from Previous Contract**

No substantive changes.

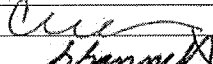
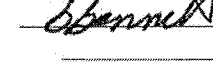
Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.

Encl.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	Executive Office
Contract or Grant Administrator:	Tawni Helms
Contractor's / Agency Name:	Birch Bay Chamber of Commerce
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: _____ (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Cost Center: 141	
Is this agreement excluded from E-Verify? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> If no, include Attachment D Contractor Declaration form. If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 100,000 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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, professional services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies or equipment included approved in the budget. 4. 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: Contractor has received Convention Center funding to pay for the operations of the Birch Bay Visitor Center and the promotion and advertising of multi-day annual events.	
Term of Contract: January 1, 2020	Expiration Date: December 31, 2020

Contract	1. Prepared by:	T. Helms	Date:	11.07.20
Routing:	2. Attorney signoff:		Date:	11/5/2019
	3. AS Finance reviewed:		Date:	11/21/19
	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
Birch Bay Chamber of Commerce

CONTRACT FOR SERVICES
Birch Bay Chamber of Commerce

Birch Bay Chamber of Commerce, 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 8,
 Exhibit A (Scope of Work), p. 9,
 Exhibit B (Compensation), p. 10,
 Exhibit C (Sample Survey), p. 11,
 Exhibit D (EVerify Declaration), p. 12,
 Exhibit E (Insurance Certificate), p. 13.

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 January, 2020, regardless the date of signature and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2020.

The general purpose or objective of this Agreement is to: pay for the operations of the Birch Bay Visitor Center and the promotion of annual multi-day events that encourage tourism, 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 \$ 100,000. 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.

IN WITNESS WHEREOF, the parties have executed this Agreement this 14 day of Nov, 2019.

CONTRACTOR:

Birch Bay Chamber of Commerce

Liz Thornton
 Liz Thornton, Executive Director

STATE OF WASHINGTON)
) ss.
 COUNTY OF Whatcom)

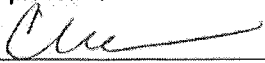
On this 14 day of Nov, 2019 before me personally appeared Liz Thornton to me known to be the Executive Director of the Birch Bay Chamber of Commerce and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Nancy Stull
 NOTARY PUBLIC in and for the State of Washington, residing at Blauvelt. My commission expires 8/28/20.

WHATCOM COUNTY:

Approved as to form:

 11/5/19
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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:

Birch Bay Chamber of Commerce

Liz Thornton, Executive Director

Address:
7900 Birch Bay Drive
Blaine, WA 98230

Mailing Address:
same

Contact Name: Liz Thornton, Executive Director

Contact Phone: 360-410-8018

Contact FAX: N/A

Contact Email: director@birchbaychamber.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: Not Applicable

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: Not Applicable

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.

31.2 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: Not Applicable

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 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement commercial general liability insurance with the following minimums:

Property Damage - \$500,000.00 per occurrence;

General Liability & Bodily injury- \$1,000,000.00 per occurrence.

A Certificate of insurance that also identifies the County as an additional insured is attached hereto as Exhibit "C". This insurance shall be considered as primary and non-contributory and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

34.2 Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

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

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

35.2 Non-Discrimination in Client Services:

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

36.1 Waiver of Noncompellition: Not Applicable

36.2 Conflict of Interest: Not Applicable

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:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor's Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions: Not Applicable

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. 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: Not Applicable

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: Not Applicable

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)

The Birch Bay Chamber of Commerce will use tourism promotion funds to:

1. Fund the operations of the Visitor Center
2. Fund the advertising and marketing for annual multi-day events designed to promote tourism and overnight stays.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Chamber shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$100,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

Personnel

Operations

Marketing (for annual multi-day events designed to encourage tourism and overnight stays)

Birch Bay Chamber of Commerce will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices. Payment will be made no more than one time per month.

Contractor will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

EXHIBIT 'C'
(Sample Survey)

Sample Survey Questions for Attendees/Participants of Attractions, Festivals and Events

1. What is your zip code?
2. How did you hear about this event? (i.e. newspaper, radio, internet, magazine, word of mouth, other)
3. How many nights away from home, if any, are you spending in Whatcom County?
4. Will you stay overnight? If so, where?
☐ Hotel or motel
☐ Campground
☐ Friend/Relative
☐ Not staying overnight
5. How much money have you spent in Whatcom County as a visitor including any food, gas lodging, tickets, etc.?
☐ \$0-\$25
☐ \$25-\$50
☐ \$50-\$100
☐ \$100-\$200
☐ \$200 or over

Sample Survey Plan:

Your Survey Plan should answer the following questions regarding your survey methodology:

1. How do you intend to distribute your survey to your event participants?
2. What incentives or methods will you use to ensure you obtain sufficient data on your event participants?
3. Who will be responsible for collecting your data?
4. Any other details regarding your survey methods or alternative methods you may use obtain relevant data regarding your event participants.

E-Verify Declaration ATTACHMENT "D"

Firm Name: LIZ THORNTON

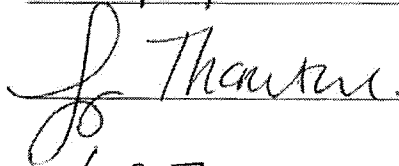
Proposal/Bid/Invitation/Solicitation No. _____

The undersigned declares, under **penalty of perjury** under the laws of Washington that:

1. The above named firm is currently enrolled in and using the E-Verify system for all employees hired on or after the contract inception date and will continue to use the E-Verify system for so long as work is being performed on the above named project.
2. I certify that I am duly authorized to sign this declaration on behalf of the above named bidder/proposer.
3. I acknowledge that Whatcom County requires a copy of the Memorandum of Understanding between the contractor listed above and the Department of Homeland Security certifying enrollment in the E-Verify program. Failure to provide the required Memorandum of Understanding could lead to suspension of this contract.

DATE: 11/13/19

SIGNATURE:



PRINTED NAME: LIZ THORNTON

Non Profit Insurance Program

CERTIFICATE OF COVERAGE

Issue Date 11/13/2019

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

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

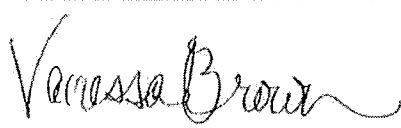
PRODUCER	COMPANIES AFFORDING COVERAGE
Clear Risk Solutions 451 Diamond Drive Ephrata, WA 98823	GENERAL LIABILITY American Alternative Insurance Corporation, et al. AUTOMOBILE LIABILITY American Alternative Insurance Corporation, et al. PROPERTY American Alternative Insurance Corporation, et al. MISCELLANEOUS PROFESSIONAL LIABILITY Princeton Excess and Surplus Lines Insurance Company
INSURED	
Birch Bay Chamber of Commerce 7900 Birch Bay Drive Blaine, WA 98230	
COVERAGES	

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE COVERAGE PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE	POLICY EXP DATE	DESCRIPTION	LIMITS
GENERAL LIABILITY					
COMMERCIAL GENERAL LIABILITY	N1-A2-RL-0000013-09	6/01/2018	6/01/2020	PER OCCURRENCE	\$2,000,000
OCCURRENCE FORM				PER MEMBER AGGREGATE	\$4,000,000
INCLUDES STOP GAP				PRODUCT-COMP/OP	\$2,000,000
				PERSONAL & ADV. INJURY	\$2,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)				ANNUAL POOL AGGREGATE	\$50,000,000
AUTOMOBILE LIABILITY					
ANY AUTO	N1-A2-RL-0000013-09	6/01/2018	6/01/2020	COMBINED SINGLE LIMIT	\$2,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)				ANNUAL POOL AGGREGATE	NONE
PROPERTY					
	N1-A2-RL-0000013-09	6/01/2018	6/01/2020	ALL RISK PER OCC EXCL EQ & FL	\$75,000,000
				EARTHQUAKE PER OCC	Excluded
				FLOOD PER OCC	Excluded
(PROPERTY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)				ANNUAL POOL AGGREGATE	NONE
MISCELLANEOUS PROFESSIONAL LIABILITY					
	N1-A3-RL-0000060-09	6/01/2018	6/01/2020	PER CLAIM	\$2,000,000
(LIABILITY IS SUBJECT TO A \$50,000 SIR PAYABLE FROM PROGRAM FUNDS)				ANNUAL POOL AGGREGATE	\$40,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS					
Evidence of Coverage only.					

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

CERTIFICATE HOLDER	AUTHORIZED REPRESENTATIVE
Birch Bay Chamber of Commerce 7900 Birch Bay Drive Blaine, WA 98230	



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-621

File ID:	AB2019-621	Version:	1	Status:	Agenda Ready
File Created:	11/21/2019	Entered by:	THelms@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Contract		
Assigned to:	Council Finance and Administrative Services Committee				Final Action:
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request authorization for the County Executive to enter into a contract between Whatcom County and Mount Baker Foothills Chamber of Commerce in support of the Visitor Center operations in the amount of \$100,000

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See attached

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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WHATCOM COUNTY
Executive Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225



Jack Louws
County Executive

MEMORANDUM

TO: Jack Louws, County Executive
FROM: Tawni Helms, Administrative Coordinator
RE: Mount Baker Foothills Chamber of Commerce
DATE: November 7, 2019

Enclosed are two (2) originals of a Contract for Services between Whatcom County and Mount Baker Foothills Chamber of Commerce for your review and signature.

- **Background and Purpose**

Contractor has received Convention Center funding to pay for the operations of the Mount Baker Foothills Visitor Center.

- **Funding Amount and Source**

Funding in the amount of \$100,000 will come from the Convention Center Fund as recommended by the Lodging Tax Advisory Committee and presented for Whatcom County Council approval on November 6, 2019.

- **Differences from Previous Contract**

No substantive changes.

Please contact Tawni Helms at extension 5208, if you have any questions or concerns regarding the terms of this agreement.

Encl.

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	Executive Office
Contract or Grant Administrator:	Tawni Helms
Contractor's / Agency Name:	Mount Baker Foothills Chamber of Commerce
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: _____ (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Contract Cost Center: 141	
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ 100,000 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	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, professional services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies or equipment included approved in the budget. 4. 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: Contractor has received Convention Center funding to pay for the operations of the Mount Baker Foothills Visitor Center.	
Term of Contract: January 1, 2020	Expiration Date: December 31, 2020

Contract	1. Prepared by:	T. Helms	Date:	11.07.19
Routing:	2. Attorney signoff:	<i>[Signature]</i>	Date:	11/05/2019
	3. AS Finance reviewed:	<i>[Signature]</i>	Date:	11/21/2019
	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
Mount Baker Foothills Chamber of Commerce

Page 0

V2.0

CONTRACT FOR SERVICES
Mount Baker Foothills Chamber of Commerce

Mount Baker Foothills Chamber of Commerce, 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 8,
 Exhibit A (Scope of Work), p. 9,
 Exhibit B (Compensation), p. 10,
 Exhibit C (Certificate of Insurance), p. 11,
 Exhibit D (E-Verify Declaration), p. 12,
 Exhibit E (Sample Survey), p. 13.

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 January, 2020, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2020.

The general purpose or objective of this Agreement is to: pay for the operations of the Mount Baker Foothills Visitor Center, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

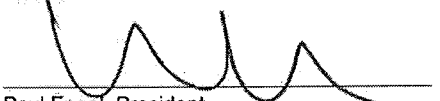
The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$ 100,000. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

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.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 20 ____.

CONTRACTOR:

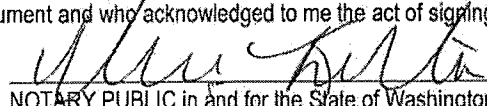
Mount Baker Foothills Chamber of Commerce


 Paul Engel, President

STATE OF WASHINGTON)
) ss.
 COUNTY OF Whatcom)

On this 15 day of November, 2019 before me personally appeared Paul Engel to me known to be the President of the Mount Baker Foothills Chamber of Commerce and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Notary Public
State of Washington
Rebecca Boonstra
Commission Expires 04/24/22


 NOTARY PUBLIC in and for the State of Washington, residing at
855 Juniper Pl. My commission expires 04/24/22
Maple Falls WA

WHATCOM COUNTY:

Approved as to form:

Clive 11/5/19
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, 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:

Mount Baker Foothills Chamber of Commerce

Paul Engel, President

Address:
P.O. Box 866
Maple Falls, WA 98266

Mailing Address:
same

Contact Name: Rebecca Boonstra, Executive Director

Contact Phone: 360-599-1518

Contact FAX: N/A

Contact Email: info@mtbakerchamber.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: Not Applicable

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: Not Applicable

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.

31.2 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: Not Applicable

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 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement commercial general liability insurance with the following minimums:

Property Damage - \$500,000.00 per occurrence;

General Liability & Bodily injury- \$1,000,000.00 per occurrence.

A Certificate of insurance that also identifies the County as an additional insured is attached hereto as Exhibit "C". This insurance shall be considered as primary and non-contributory and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

34.2 Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

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 agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the

grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

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

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

35.2 Non-Discrimination in Client Services:

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

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest: Not Applicable

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:

Tawni Helms, Administrative Coordinator
Whatcom County Executive's Office
311 Grand Avenue, Suite 108
Bellingham, WA 98225

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor's Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions: Not Applicable

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. 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: Not Applicable

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: Not Applicable

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)

The Mount Baker Foothills Chamber of Commerce will use tourism promotion funds to:

Fund the operations of the Visitor Center. Expenses will include salaries and benefits, marketing/promotion and travel.

Promotional materials regarding the proposed activity must mention that it is made possible in part by a Tourism Promotion Grant from Whatcom County. The scale of this credit should be commensurate with the County's level of financial support. It should include the name and logo of the County. It is not expected that this credit be displayed in all materials, but at a minimum it should be placed in such documents as programs and annual reports.

Within 30 days after the end of the contract term, the Chamber shall submit a final project report (the "Final Project Report") detailing:

- How the evaluation criteria were met by the event
- What elements worked well and which did not.
- Modifications, if any, planned for future activities.
- Summarize the results of the year's activities and major accomplishments.
- Provide Budget vs. Actual Financials.

Failure to complete and deliver the Final Project Report in a timely manner may render recipient ineligible for future funding. Pursuant to RCW 67.28.1816, recipients of lodging tax funds must provide the following information:

The estimated number of tourists, persons traveling over fifty miles to the destination, persons remaining at the destination overnight, and lodging stays generated per festival, special event or tourism-related facility owned or sponsored by a nonprofit organization or local jurisdiction.

EXHIBIT "B"
(COMPENSATION)

Maximum consideration for this contract shall be \$100,000. ***The Contract Number shall be included on all billings or correspondence.***

Allowable Expenses include:

Wages and benefits	\$ 72,775
Administration (rent, janitor, taxes, office supplies)	\$ 21,425
Marketing/Promotion (website design, maint. & hosting)	\$ 5,000
Travel	\$ 800
	\$100,000

Mount Baker Foothills Chamber of Commerce will submit invoices detailing allowable expenditures as outlined in Exhibit A to the Whatcom County Executive's Office. Payment is for reimbursement only and copies of receipts must be attached to invoices. Payment will be made no more than one time per month. Mileage will be reimbursed at the Federal IRS rate.

Contractor will also provide Whatcom County with a copy of all brochures and advertisements included with invoices.

EXHIBIT 'C'
Certificate of Insurance

Exhibit D
E-Verify Declaration

Firm Name: _____

Proposal/Bid/Invitation/Solicitation No. _____

The undersigned declares, under penalty of perjury under the laws of Washington that:

1. The above named firm is currently enrolled in and using the E-Verify system for all employees hired on or after the contract inception date and will continue to use the E-Verify system for so long as work is being performed on the above named project.
2. I certify that I am duly authorized to sign this declaration on behalf of the above named bidder/proposer.
3. I acknowledge that Whatcom County requires a copy of the Memorandum of Understanding between the contractor listed above and the Department of Homeland Security certifying enrollment in the E-Verify program. Failure to provide the required Memorandum of Understanding could lead to suspension of this contract.

DATE: _____

SIGNATURE: _____

PRINTED NAME: _____

EXHIBIT E
(Sample Survey)

Sample Survey Questions for Attendees/Participants of Attractions, Festivals and Events

1. What is your zip code?
2. How did you hear about this event? (i.e. newspaper, radio, internet, magazine, word of mouth, other)
3. How many nights away from home, if any, are you spending in Whatcom County?
4. Will you stay overnight? If so, where?

_____ Hotel or motel

_____ Campground

_____ Friend/Relative

_____ Not staying overnight
5. How much money have you spent in Whatcom County as a visitor including any food, gas lodging, tickets, etc.?

_____ \$0-\$25

_____ \$25-\$50

_____ \$50-\$100

_____ \$100-\$200

_____ \$200 or over

Sample Survey Plan:

Your Survey Plan should answer the following questions regarding your survey methodology:

1. How do you intend to distribute your survey to your event participants?
2. What incentives or methods will you use to ensure you obtain sufficient data on your event participants?
3. Who will be responsible for collecting your data?
4. Any other details regarding your survey methods or alternative methods you may use obtain relevant data regarding your event participants.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-629

File ID:	AB2019-629	Version:	1	Status:	Agenda Ready
File Created:	11/22/2019	Entered by:	SWinger@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Bid Award		
Assigned to:	Council Finance and Administrative Services Committee	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Request approval for the County Executive to enter into a contract for the purchase, delivery, and installation of a modular building for the Point Roberts Transfer Station, in the amount of \$65,179.75

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Per WCC 3.08.100(A), the Health Department, Solid Waste Division requests approval for the County Executive to enter into a contract for the purchase and installation of a modular building to replace the dilapidated trailer/office located at the Point Roberts Transfer Station. RCW 39.04.280(1) (b) provides a special market conditions exception to bidding requirements. Because the modular building is a manufacturer-rebuild and is offered at a significantly lower cost than a comparable new building, the Prosecutor's Office supports this purchase as a special market condition. The total cost of the modular building including freight and labor costs for installation and set up, and sales tax is \$65,179.75

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**WHATCOM COUNTY
ADMINISTRATIVE SERVICES**



FINANCE/ACCOUNTING
Whatcom County Courthouse
311 Grand Avenue, Suite #503
Bellingham WA 98225-4082
Brad Bennett, Finance Manager

DATE: November 22, 2019
TO: Tyler Schroeder, Director of Administrative Services
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Approval to Purchase Modular Building for the Point Roberts Transfer Station

- **Background & Purpose**

The Health Department, Solid Waste Division is requesting approval to purchase a 48'x10' modular building to replace the dilapidated trailer/office building at the Point Roberts Transfer Station. The vendor is Williams Scotsman, located in Marysville, and the total cost of the building is \$65,179.75, including all freight costs, labor costs for installation of an ADA ramp, and setup costs including tiedowns, skirting, and other aspects of the installation, and sales tax.

A bid request for the replacement modular building was advertised, Bid #19-61, there were no responses to our bid solicitation.

This building is a manufacturer rebuilt building, and is being offered at a significantly lower cost than other comparable new buildings. RCW 39.04.280(1)(b) provides a special market conditions exception from the bidding requirements. The Prosecutor's Office has reviewed this purchase request and is satisfied that the situation would constitute a special market condition, due to the fact that the unit is unique and is available at a discount.

- **Funding**

Funding for this purchase was approved on Supplemental #4-2019, Ordinance #2019-026. I concur with this request.



AS Finance Manager

Approved as recommended:

Director of Administrative Services

Date of Council Action_____

WILLSCOT

Williams Scotsman, Inc.
14407 Smokey Point Blvd
Marysville WA 98271-7864

Your Williams Scotsman Representative
Skip Locke
Territory Sales Manager
Phone: (360)651-1800 Ext. 49120
Fax: 360-651-8849
Email: skip.locke@willscot.com
Toll Free: 800-782-1500

Contract Number: 1165203
Revision: 1
Date: October 25, 2019

SALE AGREEMENT FOR USED EQUIPMENT WITHOUT WARRANTY**Buyer:** 6371523

WHATCOM COUNTY
311 GRAND AVE STE 50
BELLINGHAM, Washington, 98225

Contact:

Rusty Noble
311 GRAND AVE STE 50
BELLINGHAM, WA, 98225
Phone: (360) 778-5366
Fax: +1.360.676.6775
Email: rnoble@co.whatcom.wa.us

Ship To Address:

2005 Johnson RoadPoint Roberts Transfer
Station
POINT ROBERTS, WA 98281 US
Delivery Date (on or about):
12/09/2019

Unit Description and Pricing		Quantity	Price	Extended
48x10 Shower Locker (44x10 Box)	Unit Number: EVG-03806	1	\$34,717.15	\$34,717.15
Ramp - Delivery & Installation		1	\$1,231.71	\$1,231.71
ADA/IBC Ramp - 30' & Under		1	\$7,541.10	\$7,541.10
Miscellaneous Installation	Labor to ready bld for trans.	1	\$1,369.86	\$1,369.86
Miscellaneous Material	Material to transport bld. Can	1	\$342.47	\$342.47
Hitch removal		1	\$100.00	\$100.00
Modification to Unit M	Add doors and windows	1	\$3,200.00	\$3,200.00
Modification to Unit L	Add doors and windows	1	\$3,200.00	\$3,200.00
Delivery Freight		1	\$3,691.73	\$3,691.73
Block and Level		1	\$495.99	\$495.99
Tiedowns into dirt		16	\$92.18	\$1,474.88
Wood skirting		108	\$20.00	\$2,160.00
Total Purchase Price Including Delivery & Installation (if applicable)* :				\$59,524.89

*All prices exclude applicable taxes.

Summary of Charges

Model: SL4810

QUANTITY: 1

Total Charges for (1) Building(s): \$59,524.89



Williams Scotsman, Inc.
14407 Smokey Point Blvd
Marysville WA 98271-7864

Your Williams Scotsman Representative
Skip Locke
Territory Sales Manager
Phone: (360)651-1800 Ext. 49120
Fax: 360-651-8849
Email: skip.locke@willscot.com
Toll Free: 800-782-1500

Contract Number: 1165203
Revision: 1
Date: October 25, 2019

Payment Terms

Sales Percent Down: 50%
Sales Percent Pre Delivery: 0%
Sales Percent Net: 50%

Sales Percent Net Days: 0 days
Credit Terms: 50% due upon placement of order; 50% due upon delivery; subject to credit review.

Acknowledgement

This Sales Agreement (the "Agreement") is made on October 28, 2019, by and between Williams Scotsman, Inc., a Maryland corporation, doing business at 901 S Bond Street Suite 600, Baltimore, Maryland 21231 ("Seller") and WHATCOM COUNTY ("Buyer"), doing business at the address noted above.

Buyer agrees to purchase from Seller one or more trailer(s) and/or relocatable modular and/or pre-fabricated structures, including stairs, railings, furniture, and other items attached or appurtenant thereto, as noted above and detailed on any Addenda to this Agreement (hereinafter collectively referred to as the "Equipment"), for the purchase price and payment terms shown above and subject to the terms and conditions set forth herein and on the following pages of this Agreement and as detailed on the Addenda to this Agreement. The Agreement and the Addenda together form the "Contract Documents". The Addenda are as follows and are an integral part of this Agreement.

Addenda: No addenda are included with this document

*All prices exclude applicable taxes.

By its signature below, Buyer hereby acknowledges that it has read and agrees to be bound by the Seller's Sales Agreement Additional Terms and Conditions (7-26-13) located on Seller's internet site (<https://www.willscot.com/About/terms-conditions>), in their entirety, which are incorporated herein by reference and agrees to lease the Equipment from Seller subject to the terms therein.

EXCLUSIONS OF ALL WARRANTIES:

AS ACKNOWLEDGED AND AGREED BY THE UNDERSIGNED BUYER, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND THAT THE SALE IS "AS IS" AND "WITH ALL FAULTS." FURTHERMORE, WILLIAMS SCOTSMAN IS PROVIDING NO WARRANTIES AND MAKES NO REPRESENTATIONS WITH REGARD TO THE CONDITION OF THE SUBJECT MODULAR BUILDING.

Buyer's Initials

Signatures	
BUYER (Name): WHATCOM COUNTY	SELLER: Williams Scotsman, Inc.
Signature:	
Print Name:	
Title:	
Date:	
PO#	

PLEASE RETURN SIGNED AGREEMENT TO: BALLeases@willscot.com

Williams Scotsman now issues paperless invoices via email, an efficient, convenient & environmentally friendly process. Go green and provide us with the proper email address for your invoices.

AP Email:

No thanks. Please mail my invoices to: 311 GRAND AVE STE 50 BELLINGHAM, Washington, 98225	
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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: AB2019-603

File ID:	AB2019-603	Version:	1	Status:	Agenda Ready
File Created:	11/19/2019	Entered by:	AHester@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Discussion		
Assigned to:	Council Committee of the Whole-Executive Session	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

Primary Contact Email: Sdraper@co.whatcom.wa.us <mailto:Sdraper@co.whatcom.wa.us>

TITLE FOR AGENDA ITEM:

Discussion regarding a potential property acquisition for the Flood Control Zone District [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(b)]

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Click here to enter text. (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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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: AB2019-628

File ID:	AB2019-628	Version:	1	Status:	Agenda Ready
File Created:	11/22/2019	Entered by:	NKallunk@co.whatcom.wa.us		
Department:	Human Resources Division	File Type:	Discussion		
Assigned to:	Council Committee of the Whole-Executive Session				Final Action:
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Update on negotiations and planning strategy discussion regarding collective bargaining [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.140(4)(a)]

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Strategy planning discussion to be taken with regard to collective bargaining per RCW 42.30.140(4)(a)

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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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: AB2019-609

File ID:	AB2019-609	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	SKorthui@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Report		
Assigned to:	Council Public Works & Health Committee			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Quarterly Report from Whatcom County Public Works

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Public Works Director Jon Hutchings will give his quarterly report to Council

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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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: AB2019-631

File ID:	AB2019-631	Version:	1	Status:	Agenda Ready
File Created:	11/26/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Discussion		
Assigned to:	Council Public Works & Health Committee			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Discussion regarding mandatory garbage collection at Point Roberts

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Discussion regarding mandatory garbage collection at Point Roberts

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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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: AB2019-530

File ID:	AB2019-530	Version:	1	Status:	Held In Committee
File Created:	10/11/2019	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:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Resolution establishing a Stakeholder Advisory Committee for the Public Health, Safety, and Justice Facility Needs Assessment

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Resolution establishing a Stakeholder Advisory Committee to guide the development of the Whatcom County Public Health, Safety, and Justice Facility Needs Assessment

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
10/22/2019	Council Criminal Justice and Public Safety Committee	HELD IN COMMITTEE	Council Criminal Justice and Public Safety Committee
10/22/2019	Council	HELD IN COMMITTEE	Council Criminal Justice and Public Safety Committee

RESOLUTION NO. _____

**ESTABLISHING A STAKEHOLDER ADVISORY COMMITTEE
FOR THE PUBLIC HEALTH, SAFETY, AND JUSTICE FACILITY NEEDS ASSESSMENT**

WHEREAS, Whatcom County and its municipalities and Tribes desire to coordinate, contribute, and cooperate in enhancing public safety, and in particular our communities' behavioral health and criminal justice systems; and

WHEREAS, the County Council is taking leadership on the issue and would like to engage the community and other legislative bodies to guide future behavioral health and public safety/justice facility planning, and will seek constructive engagement with the public and other elected officials throughout the county; and

WHEREAS, all parties believe there is a need for an improved County jail that addresses the communities' full range of needs and values with a combined public health and public safety initiative that focuses on reducing our need for jail by funding treatments options first, and is built with community input; and

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 (Resolution 2019-036), including contracting for professional services to complete a needs assessment; and

WHEREAS, the Whatcom County Public Health, Safety, and Justice Facility Needs Assessment will include robust community participation to ensure the report reflects community values. A public engagement plan will include a variety of stakeholders and outreach techniques; and

WHEREAS, receiving input and recommendations through a Stakeholder Advisory Committee is necessary to ensure the needs assessment draws in feedback and participation from a variety of stakeholders.

NOW THEREFORE BE IT RESOLVED by the Whatcom County Council that the Stakeholder Advisory Committee for the Public Health, Safety, and Justice Facility Needs Assessment project is hereby established as described in Exhibit A, attached hereto and incorporated by reference, until completion of the Needs Assessment as described in AB2019-469.

APPROVED this _____ day of _____, 2019.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

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 23 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*
14. Individual with lived experience in the criminal justice system*
15. Jail Resources/Service Providers*

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.

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: MIN2019-118

File ID:	MIN2019-118	Version:	1	Status:	Agenda Ready
File Created:	11/13/2019	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Committee of the Whole AM for November 6, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**Whatcom County
Council Committee of the Whole-Executive Session**

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



Minutes - Draft Minutes

**Wednesday, November 6, 2019
10 AM
Council Conference Room**

COUNCILMEMBERS

Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call to Order

Roll Call

Present: 6 - Barbara Brenner, Barry Buchanan, Tyler Byrd, Todd Donovan, Satpal Sidhu and Carol Frazey

Absent: 1 - Rud Browne

Committee Discussion

Council Vice Chair Todd Donovan called the meeting to order at 10 a.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

Attorney Present: George Roche.

Donovan stated that discussion of agenda items one through three may take place in executive session pursuant to RCW42.30.140(4)(a). Executive session will conclude no later than 11 a.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Byrd moved to go into executive session until no later than 11 a.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Vice Chair. The motion was seconded.

The motion carried by the following vote:

Aye: 5 - Buchanan, Byrd, Donovan, Frazey, Sidhu

Nay: 0

Absent: 1 - Browne

Out of the Room: 1 - Brenner

1. AB2019-541 Discussion of pending litigation with Civil Deputy Prosecutor George Roche: Gardner v. Whatcom County, et al. USDC no. 2:19-cv-01451 [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110 (1) (i)]

This agenda item was DISCUSSED.

2. AB2019-571 Discussion of pending litigation with Civil Deputy Prosecutor George Roche: Maravilla v. Whatcom County, et al. [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110 (1) (i)]

This agenda item was DISCUSSED.

3. AB2019-555 Discussion regarding potential property acquisition for the Flood Control Zone District [Discussion of this item may take place in executive session (closed to the public) pursuant to RCW 42.30.110(1)(b)]

This agenda item was DISCUSSED.

Other Business

There was no other business.

Adjournment

The meeting adjourned at 10:51 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Vice 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: MIN2019-119

File ID:	MIN2019-119	Version:	1	Status:	Agenda Ready
File Created:	11/13/2019	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Committee of the Whole PM for November 6, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**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

ESTIMATED TIME - MEETING MAY BEGIN EARLIER/LATER THAN 3:45 P.M.

Wednesday, November 6, 2019

3:45 PM

Council Conference Room

COUNCILMEMBERS

Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Vice Chair Todd Donovan called the meeting to order at 3:50 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

Roll Call

Present: 6 - Barbara Brenner, Barry Buchanan, Tyler Byrd, Todd Donovan, Satpal Sidhu and Carol Frazey

Absent: 1 - Rud Browne

Committee Discussion

1. AB2019-586 Discussion with Chief Civil Deputy Prosecuting Attorney Karen Frakes regarding potential litigation against manufacturers and wholesalers of e-cigarettes and related products, including Juul Labs, Inc., Altria, and their corporate affiliates, in connection with the manufacture, sale, and marketing of their products

Attorney Present: Karen Frakes.

Donovan stated that discussion of agenda item one may take place in executive session pursuant to RCW42.30.140(4)(a). Executive session will conclude no later than 4:30 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Brenner moved to go into executive session until no later than 4:30 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Vice Chair. The motion was seconded.

The motion carried by the following vote:

Aye: 6 - Brenner, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 1 - Browne

This agenda item was DISCUSSED.

Other Business

Adjournment

The meeting adjourned at 4:17 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Vice 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: MIN2019-120

File ID:	MIN2019-120	Version:	1	Status:	Agenda Ready
File Created:	11/14/2019	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Special Committee of the Whole for November 6, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Whatcom County Council Special Committee of the Whole

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



Committee Minutes - Draft Minutes

Wednesday, November 6, 2019

2:45 PM

Council Chambers

COUNCILMEMBERS

Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Vice Chair Todd Donovan called the meeting to order at 2:45 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Roll Call

Present: 6 - Barbara Brenner, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey and Satpal Sidhu

Absent: 1 - Rud Browne

Committee Discussion

1. [AB2019-472](#) Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County

Michael Jones, Blaine City Manager, submitted two emails (on file), sent to the Mayor and the Blaine City Council, and a map showing the proposed zone (on file) and he gave a report. He spoke about the boat launches on the map; the density of use of the harbor and the density of development around the harbor; and how many complaint calls have been received by the City, the Department of Fish and Wildlife (DFW), and Blaine Police Department. He answered questions about whether the calls were for safety reasons.

Donnell Tanksley, Blaine City Police Chief, spoke about the number of calls made over the last few years to 9-1-1 about safety concerns surrounding hunting and how calls to DFW or elected officials are not factored into that data. He answered questions about whether a person who calls the Police Department is identified, whether any received calls on the issue have been verified to be about safety, what constitutes a safety concern, and the range of pellets shot from a shot gun.

Councilmembers and Jones discussed whether there is data that reports on the number of boats, kayakers, and walkers during the time that people would be shooting; the population growth in Blaine; the distance between the shoreline and the City limits; whether there are any homes in the range of a shot gun; what other hunting locations there are in the county; and why the second proposal for a no-shooting zone (AB2019-573) came as a separate petition request.

Dana Brown-Davis, Clerk of the Council, gave an explanation of the process for the two proposals.

Councilmembers and Jones discussed population growth, whether limiting hunting areas would create another safety issue of hunters being concentrated in a few small areas, making rules about incompatible recreational uses, and whether more data is

needed to make determinations about safety.

John Sitkin, Blaine City Attorney, spoke about the need for and the lack of available data.

Karen Frakes, Prosecuting Attorney's Office, answered a question about whether tribal treaty rights in open and unclaimed land would exempt tribal members from the proposed ordinance and spoke about adding related language to the ordinance.

This agenda item was DISCUSSED.

Committee Discussion and Recommendation to Council

1. [AB2019-573](#) Resolution acknowledging receipt of a citizen petition to form a no shooting zone in Whatcom County to be known as the Dearborn No Shooting Zone

Sidhu moved to recommend introduction to the full Council. The motion was seconded.

Dana Brown-Davis, answered a question about the process of the resolution.

The motion carried by the following vote:

Aye: 6 - Brenner, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 1 - Browne

Doug Chadwick, Sheriff's Office, answered a question about a Sheriff report submitted by the petitioner (on file), whether there have been firearm injury incidents related to the area in question, whether a wound from shot gun pellets would be lethal, how far a duck hunter need to be from shore, and whether a hunter could discharge a firearm on land from the shoreline as opposed to the water if the land was not in a no-shooting zone.

Sidhu moved and Frazey seconded that the Resolution be RECOMMENDED FOR APPROVAL. The motion carried by the following vote:

Aye: 6 - Brenner, Buchanan, Byrd, Donovan, Frazey and Sidhu

Nay: 0

Absent: 1 - Browne

Other Business

Councilmembers and Brown-Davis discussed the process of adding an amendment to the proposed ordinance AB2019-472 to include language about treaty rights.

Jones stated that additional data could probably not be supplied by the City of Blaine.

Frazey moved to schedule the amended proposed ordinance for consideration on December 3, 2019. The motion was seconded.

The motion carried by the following vote:

Aye: 4 - Buchanan, Donovan, Frazey, Sidhu

Nay: 1 - Byrd

Abstain: 1 - Brenner

Absent: 1 - Browne

Adjournment

The meeting adjourned at 3:47 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Vice 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: MIN2019-121

File ID:	MIN2019-121	Version:	1	Status:	Agenda Ready
File Created:	11/15/2019	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Regular County Council for November 6, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Whatcom County Council

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



Minutes - Draft Minutes

Wednesday, November 6, 2019

7 PM

Council Chambers

COUNCILMEMBERS

Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

COUNTY COUNCIL

CALL TO ORDER

Council Vice Chair Todd Donovan called the meeting to order at 7 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: 7 - Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carol Frazey, and Satpal Sidhu

Absent: None

Rud Browne participated in the meeting by phone.

FLAG SALUTE

ANNOUNCEMENTS

Councilmembers had a moment of silence on the passing of retired chief of police of Ferndale and interim chief of Blaine and Lynden, Michael Knapp.

MINUTES CONSENT

1. MIN2019-116 Regular County Council for October 22, 2019

Buchanan moved and Brenner seconded that the Minutes Consent be APPROVED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

INTRODUCTION ITEMS

Brenner moved to introduce items one through 15. The motion was seconded (see votes on individual items below).

1. AB2019-552 Ordinance amending the 2019 Whatcom County budget, request no. 14, in the amount of \$72,853

Brenner moved and Byrd seconded that the Ordinance be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

2. AB2019-553 Ordinance amending the project budget for the Lummi Nation Ferry Lease Fund, Request No. 2

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.
The motion carried by the following vote:**

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

3. AB2019-562 Ordinance amending the Project Budget for the Criminal Justice Integrated Case Management Systems Fund, Request No. 1

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.
The motion carried by the following vote:**

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

4. AB2019-564 Ordinance amending the Project Budget for the Lake Whatcom Park Trail Development Fund, Request No. 1

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.
The motion carried by the following vote:**

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

5. AB2019-565 Ordinance amending the 2020 Whatcom County Budget, Request No. 1, in the amount of \$18,918,279

**Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.
The motion carried by the following vote:**

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

6. AB2019-542 Ordinance authorizing the levy of taxes for countywide emergency medical purposes for 2020

Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

7. AB2019-543 Ordinance authorizing the levy of taxes for Conservation Futures purposes for 2020

Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

8. AB2019-544 Ordinance authorizing the 2020 property tax levy for county road purposes

Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

9. AB2019-546 Ordinance limiting the 2020 General Fund property tax levy

Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

10. AB2019-547 Ordinance authorizing the levy of taxes for County and State purposes in Whatcom County Washington for the year of 2020

Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

11. AB2019-285 Ordinance amending Whatcom County Code Title 3, requiring that public funds used

for construction projects do double duty by also providing apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons

Brenner moved and Frazey seconded that the Ordinance be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

12. AB2019-551 Resolution adopting 2020 budget for the Point Roberts Transportation Benefit District

Brenner moved and Frazey seconded that the Resolution be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

13. AB2019-568 Resolution authorizing the County Executive to enter into a twenty year communications tower lease agreement with Crown Castle GT for leased space on park property at Lookout Mountain

Brenner moved and Frazey seconded that the Resolution be INTRODUCED.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

14. AB2019-545 Resolution authorizing the Board of Supervisors of the Whatcom County Flood Control Zone District (WCFCZD) to impose an ad valorem property tax levy of up to fifty cents per thousand dollars of assessed value upon real property within the district in 2020

Brenner moved and Frazey seconded that the Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

15. AB2019-557 Resolution adopting the 2020 budget for the Whatcom County Flood Control Zone District and Subzones (Council acting as the Flood Control Zone District Board of

Supervisors)

Brenner moved and Frazey seconded that the Resolution (FCZDBS) be INTRODUCED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

REPORT FROM COMMITTEE OF THE WHOLE - P.M.

Donovan reported on a discussion from Committee of the Whole Executive Session.

He *moved* to retain the law firm of Keller Rohrback, at no cost to Whatcom County, to investigate and pursue litigation against manufacturers and wholesalers of e-cigarettes and related products, including Juul Labs, Inc., Altria, and their corporate affiliates, in connection with the manufacture, sale, and marketing of their products. The motion was seconded.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

Nay: 0

PUBLIC HEARINGS

1. AB2019-528 Resolution authorizing the sale of surplus personal property pursuant to WCC 1.10
Donovan opened the public hearing, and hearing no one, closed the public hearing.

Brenner moved and Byrd seconded that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

Enactment No: RES 2019-051

2. AB2019-529 Resolution authorizing the sale of surplus real property (building only) pursuant to WCC 1.10
Donovan opened the public hearing, and hearing no one, closed the public hearing.

Brenner moved and Frazey seconded that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

Enactment No: RES 2019-052

3. AB2019-531 Ordinance adopting interim zoning regulations for the siting, establishment, and operation of temporary homeless facilities

Donovan opened the public hearing, and hearing no one, closed the public hearing.

Buchanan moved and Brenner seconded that the Ordinance be ADOPTED.

The motion carried by the following vote:

Aye: 6 - Brenner, Browne, Buchanan, Donovan, Frazey, and Sidhu

Nay: 1 - Byrd

Absent: 0

Enactment No: ORD 2019-074

OPEN SESSION (20 MINUTES)

The following people spoke about (AB2019-472) Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County

Richard May

Andrew Gamble (he also spoke about proposed Cherry Point amendments)

The following people spoke about reviewing the mandatory level of service for solid waste in Point Roberts:

Allison Calder

Ken Calder

The following people spoke about (AB2019-479) Discussion of proposed ordinance amending Whatcom County Code Chapters 11.16 and 11.20 to protect Lake Samish shoreline properties and Lake Samish water recreation

Laurie Henley

Micah Ping

Rich DeVeau

David White

Janet Monks

Paul Tiscornia

Eric McHenry

Mark Walker (he also spoke about the ordinance creating a no-shooting zone in Drayton Harbor)

Paul Joostens

The following people spoke about (AB2019-285) Ordinance amending Whatcom County Code Title 3, requiring that public funds used for construction projects do double duty by also providing apprentices with job training hours to meet the requirements necessary to become the next generation of skilled trades persons

Hannah Holt

Trevor Smith (he also spoke about the Planning Commission review of proposed Cherry Point amendments)

Tom Byma

Larry (no last name given)

Ryan Likkell

Rod Roth

Jeff Ten Pas

Fidencio Velasco (he also spoke about the Planning Commission review of proposed Cherry Point amendments)

Dominic Gonzalez

Luis Seragon

Brian Cave

The following people spoke about the Planning Commission review of proposed Cherry Point amendments:

Bob Gay

Chris Watrobka

CONSENT AGENDA

Sidhu reported for the Finance and Administrative Services Committee and *moved* to approve Consent Agenda items one through five. Councilmembers discussed and voted on those items (see votes on individual items below).

(From Council Finance and Administrative Services Committee)

1. AB2019-549 Request authorization for the County Executive to enter into a contract amendment between Whatcom County and Herrera Environmental Consultants to expand the scope of work and increase the contract amount by \$65,135 for a new amount not to exceed \$164,956

Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

2. AB2019-561 Request authorization for the Executive to enter into a contract between Whatcom

County and SoftResources, LLC for consulting services to assist Whatcom County's plan to replace the current J.D. Edwards World enterprise resource planning (ERP) system in the amount of \$119,201.25

Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

3. AB2019-567 Request authorization for the County Executive to enter into a contract between Whatcom County and Washington State Military Department to utilize Emergency Management Performance Grant (EMPG) program funds to prepare for all hazards through sustainment and enhancement of Division of Emergency Management programs, in the amount of \$73,478

Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

4. AB2019-570 Request authorization for the County Executive to enter into a contract amendment with Daniel A. Swedlow, Summit Law Group, to serve as Professional Negotiator and provide legal services for collective bargaining, negotiations, mediation, binding interest arbitration, and other actions brought by a Union

Sidhu moved that the Contract be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

5. AB2019-537 Request approval for the County Executive to authorize the purchase of vehicle body repair services, using the Washington State Contract #05015, in an annual amount not to exceed \$70,000

Sidhu moved that the Bid Award be AUTHORIZED BY CONSENT. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

OTHER ITEMS

(From Council Finance and Administrative Services Committee)

1. AB2019-535 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and City of Bellingham for partial funding of maintenance and operations of the Crisis Triage Facility, in the amount of \$59,000

Sidhu moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

2. AB2019-563 Request authorization for the County Executive to enter into an interlocal agreement between Whatcom County and Washington State University for Master Gardener Program support at County Park Sites

Sidhu moved that the Interlocal be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

3. AB2019-548 Resolution approving the 2020 recommended Convention Center Fund allocations

Sidhu moved that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

Enactment No: RES 2019-053

4. AB2019-558 Request authorization for the County Executive to approve a Pass-Through Agreement between the Whatcom County Flood Control Zone District and Washington Department of Fish and Wildlife in the amount of \$216,815 and to execute a purchase and sale agreement that is consistent with the provisions and purchase price in the agreement (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Sidhu moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

5. AB2019-559 Request authorization for the County Executive to enter into a grant amendment between the Whatcom County Flood Control Zone District and the Washington State Military Department to supplement the grant scope and budget in the amount of \$169,613 for a total amended grant amount of \$512,350 (Council acting as the Whatcom County Flood Control Zone District Board of Supervisors)

Sidhu moved that the Contract (FCZDBS) be AUTHORIZED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

(From Council Special Committee of the Whole)

6. AB2019-573 Resolution acknowledging receipt of a citizen petition to form a no shooting zone in Whatcom County to be known as the Dearborn No Shooting Zone

Sidhu moved and Buchanan seconded that the Resolution be APPROVED. The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Absent: 0

Enactment No: RES 2019-054

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Councilmembers gave committee reports and updates on recent activities and upcoming events including the following motions:

(From Committee of the Whole a.m.)

Discussion of pending litigation with Civil Deputy Prosecutor George Roche: Maravilla v. Whatcom County, et al. (AB2019-571)

Donovan reported on having met in executive session and having been advised of the nature of the lawsuit, the allegations contained therein, and pursuant to Whatcom

County Code 2.56.

Sidhu moved and Frazey Seconded that the council affirmatively finds the following:

- A. The employees were acting in a matter in which the county had an interest;
- B. The employees were acting in the discharge of a duty imposed or authorized by law;
- C. The employees acted in good faith.

The officers, officials, agents or employees will be defended and indemnified pursuant to and consistent with the provisions in WCC Chapter 2.56.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

Nay: 0

**Discussion of pending litigation with Civil Deputy Prosecutor George Roche:
Gardner**

v. Whatcom County, et al. USDC no. 2:19-cv-01451 (AB2019-541)

Donovan reported on having met in executive session and having been advised of the nature of the lawsuit, the allegations contained therein, and pursuant to Whatcom County Code 2.56.

Brenner moved and Buchanan Seconded that the council affirmatively finds the following:

- A. The employees were acting in a matter in which the county had an interest;
- B. The employees were acting in the discharge of a duty imposed or authorized by law;
- C. The employees acted in good faith.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

Nay: 0

**Discussion regarding potential property acquisition for the Flood Control
Zone District (AB2019-555)**

Donovan reported on a discussion in Committee of the Whole - Executive Session.

Brenner moved and Frazey seconded to authorize the County Executive, acting on

behalf of the Whatcom County Flood Control Zone District Board of Supervisors, to move forward with and complete acquisition of the property as long as the purchase price of the property does not exceed the amount discussed in Executive Session.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

Nay: 0

(From Public Works and Health Committee)

Discussion regarding possible safety issues associated with allowing golf carts on certain roads in Birch Bay (AB2019-572)

Brenner reported on a discussion in the Public Works Committee and *moved* to recommend that the Sheriff's office come back to Council with a plan for an online low-cost golf cart registration process.

The motion carried by the following vote:

Aye: 7 - Brenner, Browne, Buchanan, Byrd, Donovan, Frazey, Sidhu

Nay: 0

ADJOURN

The meeting adjourned at 8:38 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Rud Browne, 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: MIN2019-122

File ID:	MIN2019-122	Version:	1	Status:	Agenda Ready
File Created:	11/15/2019	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Surface Water Work Session for November 12, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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Whatcom County Council Surface Water Work Session

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



Minutes - Draft Minutes

Tuesday, November 12, 2019

10:30 AM

Civic Center Building Garden Room

COUNCILMEMBERS

Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Vice Chair Todd Donovan called the meeting to order at 10:30 a.m. in the Civic Center Garden Level Conference Room, 322 Commercial Avenue, Bellingham, Washington.

Roll Call

Present: 5 - Barbara Brenner, Barry Buchanan, Tyler Byrd, Todd Donovan and Carol Frazey

Absent: 2 - Rud Browne and Satpal Sidhu

Marine Resources Committee Update

The following people gave a presentation (PowerPoint included in the agenda packet) about the work of the Marine Resources Committee (MRC) over the last 20 years including beach clean-ups and monitoring, various surveys, and restoration efforts. They highlighted projects and partnerships including the Northwest Straits Initiative, the Marine Conservation class at Western Washington University, the North Sound Stewards Program, a survey of the invasive green crab in Drayton Harbor, the Coastal Observation and Seabird Survey Team (COASST), a fish forage internship, and community outreach efforts.

Glen "Alex" Alexander

Dr. Brooke Love

Margaret Grant

Amanda Weiss

Eleanor Hines

They answered questions about the green crab invasive species problem, the level of garbage removed from beaches and whether beach trash in some areas is improving as a result of the MRC efforts, whether kelp has been destroyed here by sea urchins as much as it has been in California, and whether the Chuckanut Bay culvert replacement was done only by the MRC.

Swift Creek Update

Roland Middleton, Public Works Department, gave an update and answered questions about Swift Creek including the large landslide on the mountain, the Management Action Plan and its related projects and funding, the involvement of the the Environmental Protection Agency, the appraisal process for the Great Western Lumber property, and an upcoming consent decree.

Watershed Planning Update

Gary Stoyka, Public Works Department, gave an update on the following:

The Watershed Management Board's work and schedule, drainage basin management and how it compares to water supply planning, the Regional Water Supply Plan Phase I work and what it will involve, and staff moving forward with two recent interlocal agreements concerning water use efficiency.

Chris Elder, along with Stoyka, answered a question about whether the Conservation District has reached out to the Planning Unit and well owners.

Stoyka continued updating on the following and answering questions:

A contract with RH2 Engineering and a resulting report concerning water banking and how different options for water banking could work; the Planning Unit's consideration to use a facilitator, newly formed ad hoc committee to do an evaluation of a potential update of the Watershed Management Plan, selection of a representative to report at future Surface Water Work Sessions, upcoming presentation from the Department of Ecology on a proposed instream flow rule, and letters to the two tribes and the City of Bellingham asking them to come to the Planning Unit; two applications received by the Local Integrating Organization to continue funding for water supply work; the Ag Water Board's notification that they will be receiving grant funds; the Bureau of Reclamation's approval of the the Public Utility District's drought contingency plan; whether the Bureau understands that the plan did not come from the Council and whether the Council should send a letter to clarify their involvement; the 2020-2024 five year work plan for Lake Whatcom which should be ready for approval at the Annual Joint Councils meeting in March; and an interlocal with the Lake Whatcom Sewer District for a follow up investigation on potential impacts of on-site sewage systems on water quality.

Other Business

Stoyka brought up a potential change to the name of the Surface Water Work Session.

Brenner moved to change the name of the Surface Water Work Session to Water Work Session. The motion was seconded.

The motion carried by the following vote:

Aye: 5 - Brenner, Buchanan, Byrd, Donovan, and Frazey

Nay: 0

Absent: 2 - Browne and Sidhu

Nancy Alyanak asked about the process for getting a building permit in the Lake Whatcom watershed, what is involved in tearing down a building, and whether there is an emergency designation that can override a decision to tear a building down.

Adjournment

The meeting adjourned at 11:40 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Todd Donovan, Council Vice 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: MIN2019-123

File ID:	MIN2019-123	Version:	1	Status:	Agenda Ready
File Created:	11/15/2019	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Special Council Meeting (Kendall) for October 29, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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WHATCOM COUNTY COUNCIL
Special County Council Meeting

East Whatcom Regional Resource Center 8251 Kendall Road, Maple Falls

October 29, 2019

CALL TO ORDER

Council Chair Rud Browne called the meeting to order at 6 p.m.

ROLL CALL

Present: Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Carole Frazey, Satpal Sidhu

Absent: Barbara Brenner

PUBLIC HEARING

- 1. AB2019-540 Public hearing to review final project performance for the East Whatcom Regional Resource Center Phase II construction, funded in part by a grant through the Community Development Block Grant (CDBG) Program**

Browne opened the public hearing and the following people spoke;

Greg Winter, Opportunity Council Executive Director, thanked those involved in funding the project. He explained the grant and stated that the project should be completed and open for business in January 2020. He stated the funds for the project are about 98% spent out. He thanked Councilmembers for coming to Kendall and being in the community.

Phil Clowend thanked the Council.

Jack Hovenier, Subcommittee member, thanked everyone for their work and thanked the Council for being in the community for this meeting.

Greg Winter asked the Council to come back in January for the grand opening.

Cheryl Thompson, Foothills Food Bank Board President thanked the Council and stated she is excited to move from St. Peters Church where they are limited to one day a week. Many clients are working families. She stated she is also a member of the East Whatcom Community Council and hopes the County Council and Executive will continue to support the build out of the community.

Shorty Bjornsted stated he likes all the improvements that have been made to the Center and noted the building is used as a food bank most of the time. The community

1 worked hard to put this together. He thanked the Council for the additional Deputy
2 assigned to the area.

3
4 Hearing no one else, Browne closed the public hearing.

5
6 **OPEN SESSION**

7
8 The following audience members spoke about the covered outdoor play area planned
9 for the EWRCC:

- 10
- Jerry Burns asked when the play area would be installed.
 - Greg Winter, Opportunity Council, explained the Opportunity Council is committed to making the play area happen. He explained building three was eliminated from the project due to cost.
- 11
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14 The following audience members spoke about fire danger and organized wood
15 chipping projects:

- 16
- Richard Whitson stated the community is concerned about fire hazards. There have been a couple wood chipping projects to help with fire hazards scheduled in the area.
 - Rebecca Cann explained there are a lot of storms in the valley and if there are chipping projects made available to the community it would reduce outdoor burning. Chipping projects have worked well and are well received. She stated the last two projects produced about 55 tons of wood chips in just a couple days. She stated DNR Forest Management is coming out with a plan for the area, but feels it should extend to the whole valley.
 - Carl McDaniel stated there used to be a place in the area to get rid of branches, but there is absolutely no place to dispose of the branches currently. Chipping projects help remove fuel and the chips can be given to those who need them.
 - Vern Yadon, Pastor of Kendall Chapel, stated his church received the chips from the chipping projects. The church is developing a 3.65 acre park and the wood chips will be going on park paths.
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32 The following audience members spoke about speed limits and sidewalk installation:

- 33
- Richard Whitson, Peaceful Valley Board Member, stated they have worked hard to get sidewalks installed in the area.
 - Shorty Bjornsted, Fire Commissioner, stated the first sidewalks were installed at the roundabout. They are now working on a study to install a trail from the church to the library. They are looking into easements and whether or not Puget Sound Energy utility poles need to be moved. There have been incidents where people have been hit by cars while walking on the highway. They would like to have trails installed and are working with the State to make that happen.
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42 The following audience member spoke about high-speed internet:

- 43
- Jerry Burns asked about steps that are being taken by the County to get better internet service to the area.
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1 The following Councilmembers commented on various topics:

- 2 • Councilmember Sidhu stated he is a member of the Northwest Clean Air
3 Agency and Board. They approved giving money to the Whatcom
4 Conservation District to come up with a strategy regarding fire danger. The
5 Kendall area is a concern because there is a high population. There has to be
6 some kind of plan to remove the fuel or take out trees. Sidhu also recognized
7 the community for working together for over 20 years to get the EWRCC built.
8 He stated when citizens work together it pays off. Sidhu addressed the issue
9 of high-speed internet and stated the topic has been discussed at every
10 forum. The community sees the need for high-speed internet.
- 11 • Councilmember Browne stated he is concerned about the lack of sidewalks
12 and crosswalks in the area. His main issue of concern is the area between the
13 Resource Center and the school. He talked about the Port of Bellingham
14 leading an initiative to bring service through the Economic Development
15 Grant Program.
- 16 • Councilmember Donovan thanked everyone for all their work.
- 17 • Councilmember Frazey stated she appreciates all the volunteers and thanked
18 them for all their work.
- 19 • Councilmember Buchanan stated it is a pleasure to work with and support the
20 efforts of this community.

21
22 **ADJOURN**

23
24 The meeting adjourned at approximately 6:45 p.m.

25
26 The County Council approved these minutes on _____.

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29 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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35 _____
36 Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

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40 _____
41 NaDean Hanson, Minutes Transcription



Whatcom County

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

Agenda Bill Master Report

File Number: MIN2019-126

File ID:	MIN2019-126	Version:	1	Status:	Agenda Ready
File Created:	11/22/2019	Entered by:	KFelbing@co.whatcom.wa.us		
Department:	Council Office	File Type:	Minutes Consent		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Committee of the Whole - Executive Session for November 19, 2019

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**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, November 19, 2019
10 AM
Council Conference Room**

COUNCILMEMBERS

Barbara Brenner
Rud Browne
Barry Buchanan
Tyler Byrd
Todd Donovan
Carol Frazey
Satpal Sidhu

CLERK OF THE COUNCIL

Dana Brown-Davis, C.M.C.

Call To Order

Council Chair Rud Browne called the meeting to order at 10 a.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

Roll Call

Present: 7 - Barbara Brenner, Rud Browne, Barry Buchanan, Tyler Byrd, Todd Donovan, Satpal Sidhu and Carol Frazey

Absent: None

Committee Discussion

Attorneys Present: George Roche and Chris Quinn

Browne stated that discussion of agenda items one and two may take place in executive session pursuant to RCW42.30.140(4)(a). Executive session will conclude no later than 10:55 a.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Buchanan moved to go into executive session until no later than 10:55 a.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair. The motion was seconded.

The motion carried by the following vote:

Aye: 6 - Browne, Buchanan, Byrd, Donovan, Frazey, and Sidhu

Nay: 0

Out of the Room: 1 - Brenner

1. AB2019-584 Discussion of pending litigation with Civil Deputy Prosecutor Chris Quinn - Swift Creek Consent Decree
[Discussion of this item may take place in executive session (closed to the public) pursuant to RCW42.30.110 (1) (i)]

This agenda item was DISCUSSED.
2. AB2019-588 Discussion of pending litigation with Civil Deputy Prosecutor George Roche - Adams v. Whatcom County, et al.
[Discussion of this item may take place in executive session (closed to public) pursuant to RCW 42.30.110(1)(i)].

This agenda item was DISCUSSED.

Other Business

Adjournment

The meeting adjourned at 10:26 a.m.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WA

Dana Brown-Davis, Council Clerk

Rud Browne, 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: AB2019-583

File ID:	AB2019-583	Version:	1	Status:	Introduced for Public Hearing
File Created:	11/04/2019	Entered by:	rwhidbee@co.whatcom.wa.us		
Department:	Treasurer's Office	File Type:	Resolution Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

TITLE FOR AGENDA ITEM:

Resolution to sell tax-title property by public auction

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Pursuant to Whatcom County Code 1.10, the Whatcom County Property Management Committee has recommended sale of the following tax-title property as surplus: Tax parcel number 390705 469379 0033; CLEARWATER CONDOMINIUM UNIT 1409-UNDIV 1/12 INT IN TSU-D TOG WI UNDIV INT IN COMMON AREAS DESC AF 1281254-55. The parcel would be sold at public auction, following notification of adjacent property owners, for no less than \$1,683.04 (total taxes, interest, penalties and foreclosure costs).

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/19/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council

PROPOSED BY: Treasurer
INTRODUCTION DATE: 12/3/19

RESOLUTION NO. _____

TO SELL COUNTY TAX TITLE PROPERTY

1 WHEREAS, RCW 36.35.120 allows the County to sell real estate acquired by tax
2 foreclosure where it is found to be in the best interest of Whatcom County to sell the
3 same; and,

4
5 WHEREAS, the Whatcom County Property Management Committee
6 recommends that the resolution be passed to effectively meet the legal requirement for
7 the disposal; and,

8
9 WHEREAS, RCW 36.35.120 requires the Council to establish the minimum price
10 for said unit of property and to determine whether or not a contract will be allowed, or if
11 it will be a cash price; and,

12
13 WHEREAS, the Whatcom County Code as well as the state law allows the
14 County to reserve from the sale coal, oil, gas, gravel, mineral, ores, fossils, timber or
15 other resources if the Council finds that it is in the best interest to reserve these;

16
17 NOW, THEREFORE, BE IT RESOLVED that it is in the best interest of the
18 County to sell:

19
20 Parcel # 390705 469379 0033 / PID 110119

21
22 CLEARWATER CONDOMINIUM UNIT 1409-UNDIV 1/12 INT IN TSU-D TOG
23 WI UNDIV INT IN COMMON AREAS DESC AF 1281254-55

24
25 For no less than taxes, interest, penalties and foreclosure costs of \$1,683.04
26 to the highest and best bidder;

27
28 BE IT FURTHER RESOLVED that said price shall not be allowed under contract
29 and shall be paid in either cash, certified check, or money order to the Whatcom
30 County Treasurer at the time of sale; and,

31
32 BE IT FURTHER RESOLVED that said parcels shall be sold subject to restrictive
33 covenants allowing for imposition of Community Association fees, if any, as set forth in
34 Whatcom County Resolution No. 88-37; and,

35 BE IT FURTHER RESOLVED that this sale transfer to the owners all coal, oil,
36 gas, gravel, minerals, ores, fossils, timber or other resources on or in said land and the
37 right to mine for and remove the same in conformity with zoning regulations in force and
38 effect; and,

39
40 BE IT FURTHER RESOLVED that the Whatcom County Treasurer is hereby
41 directed to sell such property at not less than a certified price and said sale shall take
42 place in accordance with the duties as established in RCW 36.35.120.

43
44
45 APPROVED this _____ day of _____, 2019.

46
47
48 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

49
50
51 _____
52 Dana Brown-Davis, Council Clerk

Rud Browne, Chair

53
54 APPROVED AS TO FORM:

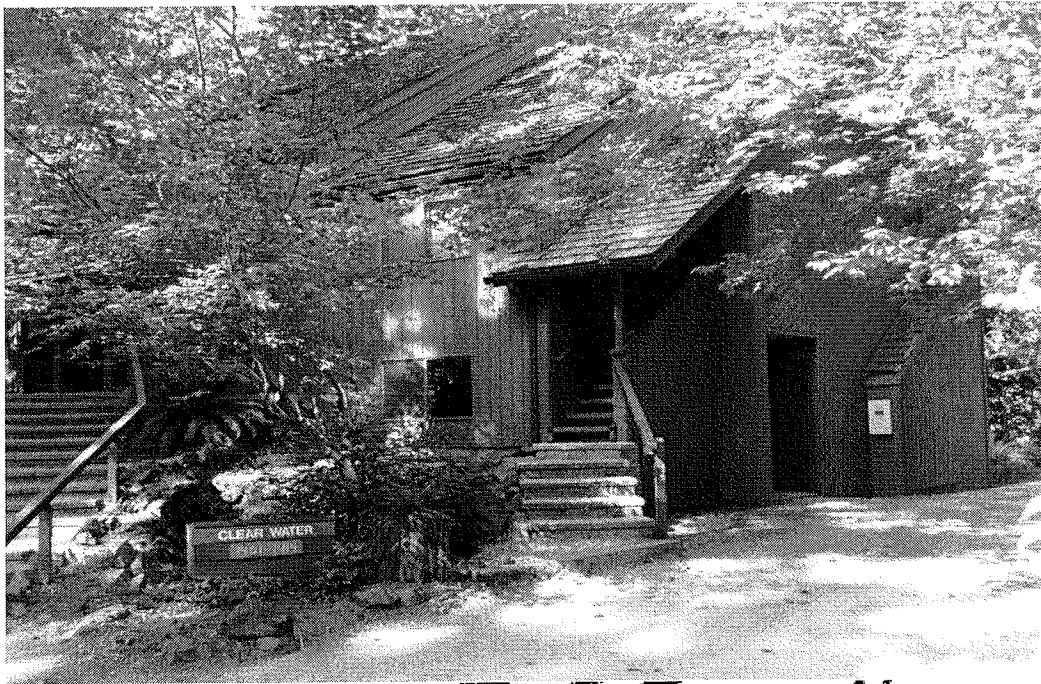
55
56
57 _____
58 Civil Deputy Prosecuting Attorney

Item A Application to purchase County Property

Parcel #390705-469379-0033 PID 110119

Acquired 12/9/2016

Applicant, Snowater Time Share Association



County Property
PID 110119



Whatcom County

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(360) 778-5010

Agenda Bill Master Report

File Number: AB2019-597

File ID:	AB2019-597	Version:	1	Status:	Introduced for Public Hearing
File Created:	11/13/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point UGA, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Ordinance imposing an interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point UGA, the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/19/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council

PROPOSED BY: _____
INTRODUCTION DATE: NOVEMBER 19, 2019

ORDINANCE NO. _____

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS AND PERMITS FOR NEW OR EXPANDED FACILITIES IN THE CHERRY POINT URBAN GROWTH AREA THE PRIMARY PURPOSE OF WHICH WOULD BE THE SHIPMENT OF UNREFINED FOSSIL FUELS NOT TO BE PROCESSED AT CHERRY POINT

WHEREAS, on July 12, 2016, the county received a letter from Chairman Ballew of the Lummi Business Council which included the statement that they "hope that the amendments to the Comprehensive Plan not unfairly impact the current employers within Cherry Point."; and

WHEREAS, the Whatcom County Council previously adopted Title 20 zoning code which regulates land use within unincorporated areas of Whatcom County; and

WHEREAS, the Council adopted the Whatcom County Comprehensive Plan on May 20, 1997, which contains goals, objectives and policies regarding land use compatibility and environmental considerations; and

WHEREAS, the Council recently updated the Whatcom County Comprehensive Plan as required by Revised Code of Washington 36.70A; and

WHEREAS, during the Comprehensive Plan review process the Council received many individual public comments on fossil fuel transshipment, transport, and transfer from Cherry Point related to the protection of the health of Whatcom County's environment, economy, and residents; and

WHEREAS, the County recognizes that the existing refineries have for decades been significant shippers of refined fossil fuels such as jet fuel and calcined coke used in manufacture of aluminum while providing substantial local employment; and

WHEREAS, the refining of fossil fuels at Cherry Point provides high wage jobs which could be lost if the existing refineries were converted to crude oil export facilities; and

WHEREAS, multiple trains carrying crude oil from the Bakken formation moving through the United States and Canada have derailed and exploded causing damage to property and the environment, one derailment caused significant fatalities, which is the reason regulations must be improved; and

WHEREAS, a unit train carrying Bakken crude traveling through Mosier, Oregon, on June 3, 2016, derailed and exploded causing damage to property and the Columbia River, demonstrating that recently adopted state and federal policies and corporate investment intended to reduce the risks associated with oil by rail have proven insufficient to protect communities along the rail corridor; and

WHEREAS, the Washington State Department of Natural Resources has designated waters adjacent to the Cherry Point Urban Growth Area as an aquatic reserve to ensure long-term protection of this unique aquatic environment; and

WHEREAS, the United States recently lifted a ban on the export of crude oil from the country, increasing pressure on deep water ports such as Cherry Point to develop into crude export terminals; and

WHEREAS, existing refineries at Cherry Point have recently increased their ability to accept crude oil by rail by constructing new rail offloading facilities to serve the refineries; and

WHEREAS, existing and proposed pipeline facilities have increased, or proposed to increase, their capacity to move crude oil, diluted bitumen, and natural gas to Cherry Point; and

WHEREAS, Title 20 currently does not explicitly prohibit transshipment, transport, and transfer of unrefined fossil fuels and construction of infrastructure to facilitate expanded shipment of unrefined fossil fuels not to be processed at Cherry Point; and

WHEREAS, according to the June 27, 2016, Land Capacity Analysis report produced by Planning and Development Services, Cherry Point contains only 1,072.6 acres of developable land that is zoned Heavy Impact Industrial (HII) for the purposes of "supplying a reasonable amount of land, commensurate with demand, for the location and grouping of heavy impact industrial uses" and to "minimize the scope of impacts generated within the HII District and to provide protection for nonindustrial districts situated outside thereof..." (WCC 20.68.010); and

WHEREAS, expansion of existing facilities for purposes of shipping unrefined fossil fuels not to be processed or consumed at Cherry Point will increase the transport of dangerous fuels through our community and increase the risk of possible derailment, spills, explosions, and the fallout will pose a serious threat to the community; and

WHEREAS, pursuant to the Washington State Constitution, the general police powers granted to counties empower and authorize Whatcom County to adopt land use controls to provide for the regulation of land uses within the County and to provide that such uses shall be consistent with applicable law; and

WHEREAS, on August 9, 2016, the Council adopted Ordinance 2016-031, an emergency ordinance imposing a sixty day moratorium on the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point; and

WHEREAS, the Council adopted interim measures on September 27, 2016 (Ordinance 2016-039), March 21, 2017 (Ordinance 2017-011), September 26, 2017 (Ordinance 2017-049), February 27, 2018 (Ordinance 2018-007), August 8, 2018 (Ordinance 2018-044), January 29, 2019 (Ordinance 2019-010), and July 9, 2019 (Ordinance 2019-049), prohibiting the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point, unless the applications:

1. Were filed and complete prior to the effective date of the ordinance and vested pursuant to Washington statutes;

2. Were for building permits for remodels, maintenance, or repairs of existing structures where no increased capacity for shipping unrefined fossil fuels not to be processed or consumed at Cherry Point would result; or

3. Were necessary to protect health and safety of the community; and

WHEREAS, these interim measures were necessary to allow time for the Council to work with staff and Cascadia Law Group to develop proposed amendments to the Comprehensive Plan and zoning code to address risks to public health, safety, and the environment associated with under-regulated expansion of fossil fuel facilities at Cherry Point; and

WHEREAS, on August 8, 2019, the Council approved Resolution 2019-037, forwarding proposed Cherry Point Urban Growth Area Comprehensive Plan and zoning code amendments to the Whatcom County Planning Commission for review and recommendation; and

WHEREAS, the Council anticipated that the Planning Commission would return findings and conclusions to the Council prior to the end of 2019; and

WHEREAS, the Council has been notified that the Planning Commission needs additional time to prepare its recommendations; and

WHEREAS, the Council finds that extending the moratorium imposed by Ordinance 2019-049 is necessary to allow adequate time for the Planning Commission to complete its work; and

WHEREAS, the Council further finds that extending the moratorium imposed by Ordinance 2019-049 is necessary for the protection of public health and safety; and

WHEREAS, RCW 36.70.790 and RCW 36.70.795 allow for adoption of interim official controls as long as a public hearing is held within sixty (60) days of adoption; and

WHEREAS, the Whatcom County Council is scheduled to hold a public hearing on this issue on December 3, 2019, or a later date; and

WHEREAS, the County Council fully recognizes the limits to its authority over transportation of certain goods imposed by federal statutes and the US Constitution, and finds that this action is within its authority;

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390

BE IT FURTHER ORDAINED by the Whatcom County Council that an interim moratorium is hereby imposed prohibiting the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point, unless the applications:

1. Were filed and complete prior to the effective date of this ordinance and vested pursuant to Washington statutes;

2. Are for building permits for remodels, maintenance, or repairs of existing structures where no increased capacity for shipping unrefined fossil fuels not to be processed or consumed at Cherry Point will result; or

3. Are necessary to protect health and safety of the community.

BE IT FURTHER ORDAINED by the Whatcom County Council that this interim ordinance shall be effective for not longer than six months following its effective date, but may be renewed for one or more six-month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.

BE IT FURTHER ORDAINED that if a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance, and if the provisions of this ordinance are found to be inconsistent with other provisions of the Whatcom County Code, this ordinance shall control.

BE IT FURTHER ORDAINED that for the purpose of this ordinance the definition of "unrefined fossil fuel" includes but is not limited to all forms of crude oil whether stabilized or not; raw bitumen, diluted bitumen, or syncrude; coal; methane propane, butane, and other "natural gas" in liquid or gaseous formats excluding those that are the byproduct of refinery processes in the Cherry Point UGA; and condensate.

BE IT FINALLY ORDAINED that for the purpose of this ordinance, the definition of "facility" includes but is not limited to piers, wharfs, buildings, tank farms, pipelines, rail loading and offloading facilities, road spurs, or any other such physical infrastructure intended to receive, transfer, or store unrefined fossil fuels;

APPROVED this _____ day of _____, 2019.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

**WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON**

Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-606

File ID:	AB2019-606	Version:	1	Status:	Introduced for Public Hearing
File Created:	11/19/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance limiting 2020 property tax levy

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This ordinance(proposed by Councilmember Donovan) adopts a 2020 budget that includes a 1% allowable increase in property tax revenues for the General Fund.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/19/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council

PROPOSED BY: DONOVAN
INTRODUCTION DATE: NOVEMBER 19, 2019

ORDINANCE NO. _____

LIMITING THE 2020 GENERAL PROPERTY TAX LEVY

WHEREAS, in his October 18, 2019 Budget Memo to the Council, the County Executive recognized a "structural gap of General Fund revenues not keeping up with inflation and population growth"; and

WHEREAS, the Executive recognized that this structural gap is "a cause of long-term financial concern;" and

WHEREAS, the Executive recognized that the County's Fund Balance, while appearing healthy now, is in decline; and

WHEREAS, Council has approved the Executive's request for additional, highly needed FTE for the 2019-2020 biennial budget, funded from the General Fund, without provisions of addition of General Fund revenues; and

WHEREAS, Council has approved additional, highly needed FTEs in previous biennial budgets from the Executive, funded from the General Fund, without provisions of addition of General Fund revenues; and

WHEREAS, Council has approved additional expenditures, not requested by the Executive, for highly needed for services for homeless youths, and for winter shelters; and

WHEREAS, the Administration had recognized that dedicated fund balances, such as the Behavioral Health Fund, are also in decline; and

WHEREAS, critical services from dedicated funds, such as counseling for at-risk youths, have been reduced, while the Executive and Council have limited capacity to fund such services with dedicated fund dollars; and

WHEREAS, the addition of needed FTE via the General Fund in 'good' economic times, without adequate revenues, likely requires elimination of FTE when the economy goes sour during a recession; and

WHEREAS, the need to provide public services and public safety remain regardless of future economic downturns; and

WHEREAS, a local government has little control over budget drivers such as inflation and population growth; and

WHEREAS, Whatcom County has not taken the minimum, 1% increase in property tax revenues in decades; and

WHEREAS, the 1% increase in property tax revenues likely does not keep pace with inflation; and

WHEREAS, the County Assessor has estimated that taking the 1% allowable increase would cost a \$300,000 dollar valued property about \$4.00 per year.

BE IT THEREFORE RESOLVED That Whatcom County adopt a budget that includes the 1% allowable increase in property tax revenues for the General Fund.

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-607

File ID:	AB2019-607	Version:	1	Status:	Introduced for Public Hearing
File Created:	11/19/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance limiting the 2020 General Fund tax levy

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

The proposed ordinance limits the 2020 General Fund property tax levy and establishes a new maximum allowable property tax levy

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/19/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council

PROPOSED BY:
INTRODUCTION DATE: November 19, 2019

ORDINANCE NO. _____

**ORDINANCE LIMITING THE 2020
GENERAL FUND PROPERTY TAX LEVY**

WHEREAS, the County Council has approved a budget for the 2019–2020 biennium, including all sources of revenues and anticipated expenditures on November 20, 2018; and

WHEREAS, the County Council, in the course of considering the mid-biennium review and modification has reviewed all sources of revenue and examined all anticipated expenses and obligations; and,

WHEREAS, the County Council has determined it is not necessary to increase the General Fund property tax levy for 2020,

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Whatcom County Council that amounts collected through the County general levy shall be limited to the amount of 2019 taxes, increased for the addition of new construction and improvements to property and any increase in the value of state assessed property. A property tax increase in addition to the amount resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property is hereby authorized for the 2020 levy in the amount of \$0, which is a percentage increase of 0% from the previous year.

ADOPTED this ____ day of _____, 2019

ATTEST:

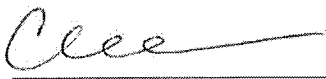
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Brown, Council Chair

APPROVED AS TO FORM:

() APPROVED () NOT APPROVED



Civil Deputy Prosecutor

Jack Louws, Executive

Date: _____



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-565

File ID:	AB2019-565	Version:	1	Status:	Held in Council
File Created:	10/23/2019	Entered by:	MCaldwel@co.whatcom.wa.us		
Department:	Finance Division	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending the 2020 Whatcom County Budget, Request No. 1, in the amount of \$19,206,192

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Supplemental #1 requests funding from the General Fund (amendments approved by Council on November 19, 2019, are noted at the end of the list below):

1. To move \$1,811,197 out of Non-Departmental wage and benefit reserves to distribute to all General Fund departments in accordance with 2020 wage and benefit settlements.
2. To appropriate \$60,000 in Assessor to fund high value appeal defense - professional services.
3. To appropriate \$30,000 in District Court to fund increases in interpreter and Pro Tem Judge services.
4. To appropriate \$51,407 in District Court Probation to fund .5 FTE Probation Officer increase to 1 FTE.
5. To appropriate \$90,000 in District Court Probation to fund domestic violence perpetrator program from transfer in from the Behavior Health Programs Fund.
6. To record decrease of \$106,562 in Executive as a result of Director of Administrative Services wage and benefit reallocation.
7. To appropriate \$549,015 in Health to move mental health and developmental disability millage funds back to the General Fund.
8. To appropriate \$282,823 in Health to fund various substance use programs funded grant proceeds.

9. To appropriate \$10,000 in Health to fund severe weather shelter support.
10. To appropriate \$200,000 in Health to fund housing renovation projects for individuals with developmental disabilities.
11. To appropriate \$87,369 in Juvenile to fund OCVA CASA grant program.
12. To appropriate \$634,856 in Non-Departmental to fund transfer to the Jail Fund and the Election Reserve Fund to support mid-biennium adjustments.
13. To appropriate \$5,900 in Parks to fund increased ER&R rate on dump truck and additional senior center extra help hours.
14. To appropriate \$63,032 in Prosecuting Attorney to fund increase of a .6 FTE Sr Deputy II position to a 1 FTE.
15. To appropriate \$96,088 in Public Defender to fund the addition of a 1 FTE Deputy I position.
16. To appropriate \$67,017 in Sheriff to fund Crisis Negotiation team training, polygraph operator training, community relations consultant contract and a Lexipol policy management system.
17. To appropriate \$15,000 in WSU Extension to fund solid waste program expansion.

From the Road Fund:

18. To appropriate \$77,000 in Public Works - Admin to fund Road Fund's portion of CosMos Model funding and 2020 Ferry Program wage supplement.
19. To appropriate \$10,401,396 in Public Works - Construction to fund 2020 Annual Road Program.
20. To appropriate \$148,718 in Public Works - M&O to fund 2 FTEs Road Maintenance Workers.
21. To appropriate \$273,500 in Public Works - M&O to fund transfers to ER&R for vehicle additions, upgrades and new salt & sand bunkers.
22. To appropriate \$50,000 in Public Works - M&O to fund a sign roller flatbed and sign cutter/printer replacement.
23. To appropriate \$45,000 in Public Works - NPDES to fund transfer to ER&R for vehicle addition and annual ER&R maintenance/replacement fees.

From the Election Reserve Fund:

24. To appropriate \$207,326 to fund Presidential Primary and increased election costs from grant funding and general fund transfer in.

From the Veteran's Relief Fund:

25. To appropriate \$3,906 to fund 2020 wage and benefit settlements.

From the Whatcom County Jail Fund:

26. To appropriate \$150,000 to fund additional contract beds.
27. To appropriate \$9,000 to fund increased Black Rock (Wave) fiber connection costs.
28. To appropriate \$373,006 to fund increased inmate medical program costs.
29. To appropriate \$29,191 to fund Lexipol policy management system.
30. To record \$552,856 transfer in from the General Fund to cover all mid-biennium expenditure requests.

From the Homeless Housing Fund:

- 31. To appropriate \$3,054 to fund 2020 wage and benefit settlements
- 32. To decrease 2020 appropriation by \$390,000 due to decreased homeless housing surcharge revenues.

From the Stormwater Fund:

- 33. To appropriate \$40,000 to fund Lake Whatcom on-site septic system impact assessment from Flood transfer in.

From the Behavioral Health Programs Fund:

- 34. To appropriate \$210,000 in Health to fund GRACE Program services from local grant proceeds.
- 35. To appropriate \$48,000 in Health to fund CDE Medical Outreach vehicle purchase transfer to ER&R.
- 36. To appropriate \$1,317,047 in Health to fund additional behavioral health services.
- 37. To appropriate \$3,340 in Superior Court - Drug Court to fund 2020 wage and benefit settlements.

From the Mental Health & Developmental Disabilities Fund:

- 38. To appropriate \$648,000 to move budget authority back to the General Fund.

From the Swift Creek Sediment Management Fund:

- 39. To appropriate \$665,000 to fund 2020 budget.

From the Solid Waste Fund:

- 40. To appropriate \$25,309 to fund 2020 wage and benefit settlements.
 - 41. To appropriate \$25,000 to fund Disposal of Toxics facility maintenance.
 - 42. To appropriate \$133,445 to fund solid waste comp plan update.
 - 43. To appropriate \$475,000 to fund Point Roberts solid waste collection services from fee revenues.
 - 44. To appropriate \$126,775 to fund waste reduction and recycling program expansion.
 - 45. To appropriate \$5,950 to fund EnviroStars program annual dues.
- From the Whatcom County Convention Center (Lodging Tax) Fund:
- 46. To appropriate \$565,775 to fund wayfinding project.

From the Community Development Fund:

- 47. To appropriate \$6,000 to fund on-site septic system rebate program expansion.

From the Emergency Management Fund:

- 48. To appropriate \$10,693 to fund 2020 wage and benefit settlements.

From the Real Estate Excise Tax II Fund:

- 49. To appropriate \$425,025 to fund transfer in support of Lake Whatcom Park projects.

From the Real Estate Excise Tax I Fund:

- 50. To appropriate \$115,000 to fund carpeting and repainting the Public Defender building.

From the Public Utilities Improvement (EDI) Fund:

- 51. To appropriate \$113,824 to increase funding for the Tri-Funder Agreement for economic

development.

52. To appropriate \$500,000 to fund Housing Affordable impact fee loan program.

From the Ferry Fund:

53. To appropriate \$60,000 to fund 2020 Ferry wage supplement.

From the Equipment Rental & Revolving (ER&R) Fund:

54. To appropriate \$476,000 to fund additional salt & sand bunkers for M&O, vehicle additions and upgrades for M&O, NPDES, Parks, AS-Facilities and Health.

55. To appropriate \$250,000 to fund increased shop rates offset by intrafund revenues in ER&R.

From the Administrative Services Fund:

56. To appropriate \$106,562 in AS-Admin to fund Director of Administrative Services wage and benefit re-allocation.

57. To appropriate \$107,420 in AS-Facilities to fund snow and ice removal equipment, purchase of 3 used surplus vehicles, ongoing fuel and maintenance costs for the vehicles, and re-appropriation of funding for a shared (with M&O) bucket truck.

58. To appropriate \$200,000 in AS-Tort to fund increase in general liability insurance premiums.

59. To appropriate \$25,000 in AS-Human Resources to fund additional professional negotiator services.

60. To appropriate \$20,000 in AS-Information Technology to fund Microsoft E-mail Advanced Threat Protection service.

In the Affordable & Supportive Housing Fund:

61. To record \$800,000 new housing fund revenues.

In addition, Supplemental #1 contains changes to Exhibit B - Capital Appropriations and Exhibit C - Position Control Changes due to approved mid-biennium requests.

AMENDMENTS APPROVED BY COUNCIL ON NOVEMBER 19, 2019:

~~\$549,015 in Health to move mental health and developmental disability millage funds back to the General Fund;~~

\$125,000 in Health to fund day center for homeless youth; \$30,000 in Health to fund youth winter shelter supplies and services;

~~From the Mental Health and Developmental Disabilities Fund: \$648,000 to move budget authority back to the General Fund;~~

The following scrivener's error was corrected:

From the REET II Fund: ~~\$425~~452,025 to fund transfer in support of Lake Whatcom Park

projects;

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/06/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council
11/19/2019	Council	HELD IN COUNCIL	Council

**ORDINANCE NO.
AMENDMENT NO. 1 OF THE 2020 BUDGET**

WHEREAS, the 2019-2020 budget was adopted November 20, 2018; and,
WHEREAS, changing circumstances require modifications to the approved 2019-2020 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 2019-2020
Whatcom County Budget Ordinance #2018-064 is hereby amended by adding the following additional
amounts to the 2020 budget included therein:

Fund	Expenditures	Revenues	Net Effect
General Fund			
Assessor	220,822	-	220,822
Auditor	27,352	-	27,352
Council	43,732	-	43,732
Clerk	148,827	-	148,827
District Court	185,883	-	185,883
District Court Probation	237,278	(90,000)	147,278
Executive	(60,466)	-	(60,466)
Health	927,936	(314,939)	612,997
Hearing Examiner	5,479	-	5,479
Juvenile	233,468	(87,369)	146,099
Parks	81,060	-	81,060
Planning and Development Services	179,224	-	179,224
Prosecuting Attorney	249,777	-	249,777
Public Defender	159,874	-	159,874
Sheriff	136,477	(11,722)	124,755
Superior Court	93,298	-	93,298
Treasurer	21,925	-	21,925
Extension	26,325	(15,000)	11,325
Non-Departmental	(1,176,341)	-	(1,176,341)
Total General Fund	1,741,930	(519,030)	1,222,900
Road Fund	10,995,614	(3,011,000)	7,984,614
Election Reserve Fund	207,326	(207,326)	-
Veteran's Relief Fund	3,906	-	3,906
Jail Fund	561,197	(561,197)	-
Homeless Housing Fund	(386,946)	390,000	3,054
Stormwater Fund	40,000	(40,000)	-
Behavioral Health Programs Fund	1,578,387	(710,000)	868,387
Swift Creek Sediment Management	665,000	(665,000)	-
Solid Waste Fund	791,479	(475,000)	316,479
WC Convention Center Fund (Lodging Tax Fund)	565,775	-	565,775
Community Development Fund	6,000	-	6,000
Emergency Management Fund	10,693	-	10,693
Real Estate Excise Tax II Fund	452,025	-	452,025
Real Estate Excise Tax I Fund	115,000	-	115,000
Public Utilities Improvement (EDI) Fund	613,824	-	613,824
Ferry Fund	60,000	(27,000)	33,000
Equipment Rental & Revolving Fund	726,000	(671,000)	55,000
Administrative Services Fund	458,982	-	458,982
Affordable & Supportive Housing Fund	-	(800,000)	(800,000)
Total Supplemental	19,206,192	(7,296,553)	11,909,639

BE IT FURTHER ORDAINED by the Whatcom County Council that the Capital Appropriations listing be amended as presented in the attached Exhibit B.

BE IT FURTHER ORDAINED by the Whatcom County Council that Exhibit C – Position Control Changes in the 2019-2020 Budget Ordinance should also be amended to provide for the following FTE changes:

- Increase .5 Probation Officer to 1 FTE in District Court Probation
- Increase .6 Deputy to 1 FTE in Prosecuting Attorney
- Add 1 FTE Deputy in Public Defender
- Add 2 FTEs Road Maintenance Worker in Public Works – M&O

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Chair of Council

APPROVED AS TO FORM:

() Approved () Denied

Civil Deputy Prosecutor

Jack Louws, County Executive

Date: _____

WHATCOM COUNTY				
Summary of the 2020 Supplemental Budget Ordinance No. 1				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
General Fund				
Assessor	To fund 2020 wage and benefit settlements	160,822	-	160,822
Assessor	To fund high value appeal defense - professional services	60,000	-	60,000
Auditor	To fund 2020 wage and benefit settlements	27,352	-	27,352
Council	To fund 2020 wage and benefit settlements	43,732	-	43,732
Clerk	To fund 2020 wage and benefit settlements	148,827	-	148,827
District Court	To fund 2020 wage and benefit settlements	155,883	-	155,883
District Court	To fund interpreter increase	15,000	-	15,000
District Court	To fund pro tem increase	15,000	-	15,000
District Court Probation	To fund 2020 wage and benefit settlements	95,871	-	95,871
District Court Probation	To fund Probation Officer .5 to 1 FTE increase	51,407	-	51,407
District Court Probation	To fund domestic violence perpetrator program	90,000	(90,000)	-
Executive	To fund 2020 wage and benefit settlements	46,096	-	46,096
Executive	To record Director of Administrative Services wage and benefit reallocation	(106,562)	-	(106,562)
Health	To fund 2020 wage and benefit settlements	280,113	-	280,113
Health	To fund 2020 criminal justice treatment from grant proceeds	159,090	(175,000)	(15,910)
Health	To fund NSASO dedicated marijuana revenue programs	75,852	(83,438)	(7,586)
Health	To fund DOH youth marijuana prevention programs from grant proceeds	41,380	(50,000)	(8,620)
Health	To fund severe weather shelter support	10,000	-	10,000
Health	To fund NSASO substance use block grant program increase	6,501	(6,501)	-
Health	To fund housing renovation projects for individuals with developmental disabilities	200,000	-	200,000
Health	To fund day center for homeless youth.	125,000	-	125,000
Health	To fund youth winter shelter supplies and services	30,000	-	30,000
Hearing Examiner	To fund 2020 wage and benefit settlements	5,479	-	5,479
Juvenile	To fund 2020 wage and benefit settlements	146,099	-	146,099
Juvenile	To fund continuation of OCVA CASA grant program	87,369	(87,369)	-
Non-Departmental	To distribute 2020 General Fund wage reserve	(1,811,197)	-	(1,811,197)
Non-Departmental	To fund transfer for Jail mid-biennium requests	552,856	-	552,856
Non-Departmental	To fund transfer to Elections for mid-biennium requests	82,000	-	82,000
Parks	To fund 2020 wage and benefit settlements	75,160	-	75,160
Parks	To fund increased ER&R rate for dump truck	3,900	-	3,900
Parks	To fund senior center extra help additional hours	2,000	-	2,000
Planning and Development Services	To fund 2020 wage and benefit settlements	179,224	-	179,224
Prosecuting Attorney	To fund 2020 wage and benefit settlements	186,745	-	186,745

WHATCOM COUNTY				
Summary of the 2020 Supplemental Budget Ordinance No. 1				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
Prosecuting Attorney	To fund increase of .6 FTE Sr Deputy II position to 1 FTE	63,032	-	63,032
Public Defender	To fund 2020 wage and benefit settlements	63,786	-	63,786
Public Defender	To fund addition of 1 FTE Deputy I	96,088	-	96,088
Sheriff	To fund 2020 wage and benefit settlements	69,460	-	69,460
Sheriff	To fund Crisis Negotiation Team training	10,000	-	10,000
Sheriff	To re-appropriate funding for polygraph operator training	8,600	-	8,600
Sheriff	To fund community relations consultant contract	15,000	-	15,000
Sheriff	To fund Lexipol policy management system	33,417	(11,722)	21,695
Superior Court	To fund 2020 wage and benefit settlements	93,298	-	93,298
Treasurer	To fund 2020 wage and benefit settlements	21,925	-	21,925
Extension	To fund 2020 wage and benefit settlements	11,325	-	11,325
Extension	To fund solid waste program expansion	15,000	(15,000)	-
Total General Fund		1,741,930	(519,030)	1,222,900
Road Fund				
Public Works - Admin	To fund CosMos Model Funding - Road Fund contribution	50,000	-	50,000
Public Works - Admin	To fund Road Fund portion of Ferry Program wage supplement.	27,000	-	27,000
Public Works - Construction	To fund the 2020 Annual Road Program	10,401,396	(3,011,000)	7,390,396
Public Works - M&O	To fund additional Road Maintenance Worker FTE - #1	74,359	-	74,359
Public Works - M&O	To fund additional Road Maintenance Worker FTE - #2	74,359	-	74,359
Public Works - M&O	To re-appropriate funding for shared bucket truck - ASR2019-2967	57,500	-	57,500
Public Works - M&O	To fund transfer to ER&R for additional salt & sand bunkers.	90,000	-	90,000
Public Works - M&O	To fund upgrade request for #203 1993 GMC 3500 2wd	21,000	-	21,000
Public Works - M&O	To fund upgrade request for #216 truck mounted compressor	15,000	-	15,000
Public Works - M&O	To fund new 1/2 ton 4X4 extended cab pickup truck #1	45,000	-	45,000
Public Works - M&O	To fund new 1/2 ton 4X4 extended cab pickup truck #2	45,000	-	45,000
Public Works - M&O	To fund sign roller flatbed	30,000	-	30,000
Public Works - M&O	To fund sign cutter/printer replacement	20,000	-	20,000
Public Works - NPDES	To fund small pickup or SUV	42,000	-	42,000
Public Works - NPDES	To fund ER&R for small pickup or SUV	3,000	-	3,000
Total Road Fund		10,995,614	(3,011,000)	7,984,614

WHATCOM COUNTY				
Summary of the 2020 Supplemental Budget Ordinance No. 1				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
Election Reserve Fund	To fund mid-year supplemental	207,326	(207,326)	-
Veteran's Relief Fund	To fund 2020 wage and benefit settlements	3,906	-	3,906
Jail Fund				
Jail	To fund additional contract beds	150,000	-	150,000
Jail	To fund Black Rock (Wave) differential	9,000	-	9,000
Jail	To fund additional health care services	20,000	-	20,000
Jail	To fund MAT program	25,000	-	25,000
Jail	To fund additional hospital costs	85,000	-	85,000
Jail	To fund additional Medic One costs	15,000	-	15,000
Jail	To fund NWRC contract increase	63,006	-	63,006
Jail	To fund additional psychiatric medications	150,000	-	150,000
Jail	To fund ARNP hours increase	10,000	-	10,000
Jail	To fund emergency room doctors increase	5,000	-	5,000
Jail	To fund Lexipol policy management system	29,191	(8,341)	20,850
Jail	To record transfer in from General Fund	-	(552,856)	(552,856)
Total Jail Fund		561,197	(561,197)	-
Homeless Housing Fund				
Health	To fund 2020 wage and benefit settlements	3,054	-	3,054
Health	To decrease housing support services revenues	(390,000)	390,000	-
Total Homeless Housing Fund		(386,946)	390,000	3,054
Stormwater Fund	To fund Lake Whatcom on-site septic system impact assessment	40,000	(40,000)	-
Behavioral Health Programs Fund				
Health	To fund GRACE services from City of Bellingham funding	140,000	(140,000)	-
Health	To fund GRACE services from Peace Health funding	50,000	(50,000)	-
Health	To fund CDE Medical Outreach vehicle purchase	48,000	-	48,000
Health	To fund additional behavioral health services	1,317,047	(500,000)	817,047
Health	To fund GRACE services from North Sound ACH funding	20,000	(20,000)	-
Superior Court	To fund Drug Court 2020 wage and benefit settlements	3,340	-	3,340
Total Behavioral Health Programs Fund		1,578,387	(710,000)	868,387
Swift Creek Sediment Management	To record 2020 budget	665,000	(665,000)	-

WHATCOM COUNTY				
Summary of the 2020 Supplemental Budget Ordinance No. 1				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
Solid Waste Fund				
Health	To fund 2020 wage and benefit settlements	25,309	-	25,309
Health	To fund Disposal of Toxics facility maintenance	25,000	-	25,000
Health	To fund solid waste comprehensive plan update	133,445	-	133,445
Health	To fund Pt Roberts solid waste collection services	475,000	(475,000)	-
Health	To fund waste reduction and recycling program expansion	126,775	-	126,775
Health	To fund EnviroStars program annual dues	5,950	-	5,950
Total Solid Waste Fund		791,479	(475,000)	316,479
WC Convention Center Fund (Lodging Tax Fund)	To fund wayfinding project	565,775	-	565,775
Community Development Fund	To fund on-site septic system rebate program expansion	6,000	-	6,000
Emergency Management Fund	To fund 2020 wage and benefit settlements	10,693	-	10,693
Real Estate Excise Tax II Fund	To fund transfer in support of Lake Whatcom Park projects	452,025	-	452,025
Real Estate Excise Tax I Fund				
Facilities	To fund carpet for the Public Defender building	65,000	-	65,000
Facilities	To fund repaint of Public Defender building	50,000	-	50,000
Total Real Estate Excise Tax I Fund		115,000	-	115,000
Public Utilities Improvement (EDI) Fund				
Non-Departmental	To increase funding for Tri-Funder Agreement for economic development	113,824	-	113,824
Non-Departmental	To fund Housing Affordable impact fee loan program	500,000	-	500,000
Total Public Utilities Improvement (EDI) Fund		613,824	-	613,824
Ferry Fund	To fund 2020 Ferry wage supplement	60,000	(27,000)	33,000
Equipment Rental & Revolving Fund				
Public Works - Equipment Services	To fund additional bunkers for salt and sand storage	90,000	(90,000)	-
Public Works - Equipment Services	To re-appropriate funding for Facilities/M&O shared bucket truck	115,000	(115,000)	-
Public Works - Equipment Services	To fund addition of CDE Medical Outreach vehicle	48,000	(48,000)	-
Public Works - Equipment Services	To fund addition of NPDES vehicle	42,000	(42,000)	-
Public Works - Equipment Services	To fund addition of road crew leader pickup #1	45,000	(45,000)	-
Public Works - Equipment Services	To fund addition of road crew leader pickup #2	45,000	(45,000)	-
Public Works - Equipment Services	To fund upgrade of vehicle #203 replacement	21,000	(21,000)	-
Public Works - Equipment Services	To fund upgrade of #216 truck mounted compressor replacement	15,000	(15,000)	-
Public Works - Equipment Services	To record revenue for shop rate increase - intrafund #1	-	(250,000)	(250,000)
Public Works - Equipment Services	To fund shop rate increase - intrafund #2	250,000	-	250,000
Public Works - Equipment Services	To fund upgrade of Parks vehicle #887	55,000	-	55,000
Total Equipment Rental & Revolving Fund		726,000	(671,000)	55,000

WHATCOM COUNTY				
Summary of the 2020 Supplemental Budget Ordinance No. 1				
Department/Fund	Description	Increased (Decreased) Expenditure	(Increased) Decreased Revenue	Net Effect to Fund Balance (Increase) Decrease
Administrative Services Fund				
AS - Administration	To fund Director of Administrative Services wage & benefit re-allocation	106,562	-	106,562
AS - Facilities	To fund snow and ice removal equipment	28,000	-	28,000
AS - Facilities	To fund 3 new "used"/surplus vehicles from ER&R Fleet	18,000	-	18,000
AS - Facilities	To fund ongoing costs for fleet vehicles	3,920	-	3,920
AS - Facilities	To fund Facilities portion of shared bucket truck	57,500	-	57,500
AS - Human Resources/Tort	To fund increase in general liability insurance premiums	200,000	-	200,000
AS - Human Resources	To fund additional professional negotiator services	25,000	-	25,000
AS - Information Technology	To fund Microsoft E-mail Advanced Threat Protection service	20,000	-	20,000
Total Administrative Services Fund		458,982	-	458,982
Affordable & Supportive Housing Fund	To record new housing fund revenue	-	(800,000)	(800,000)
Total Supplemental		19,206,192	(7,296,553)	11,909,639



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-472

File ID:	AB2019-472	Version:	1	Status:	Public Testimony Received and Referred to Committee
File Created:	09/05/2019	Entered by:	DBrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code 9.32, Unlawful Discharge of Firearms, to establish a no shooting zone in the Drayton Harbor area of Whatcom County

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

At the request of the City of Blaine, this ordinance would establish a no shooting zone in the Drayton Harbor area of Whatcom County. The boundaries of the proposed zone are as follows: That portion of Sections 7 and 18, Township 40 North, Range 1 East and Sections 1, 2, 11, 12, and 13, Township 40 North, Range 1 West, W.M., Whatcom County, Washington described as follows: Beginning along Drayton Harbor Road (Co. Rd. No. 37) at the intersection of the ordinary high water mark of Drayton Harbor with the limits of the city of Blaine, Whatcom County, Washington; thence easterly along said ordinary high water mark to the intersection with the northerly face of an existing bridge over California Creek; thence easterly along said northerly bridge face to the intersection with said ordinary high water mark; thence northerly along said ordinary high water mark to the intersection with said city limits; thence along said city limits westerly, northerly and southerly to the point of beginning.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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09/24/2019	Council	INTRODUCED FOR PUBLIC HEARING	Council
10/08/2019	Council	HEARD PUBLIC TESTIMONY AND REFERRED TO COMMITTEE	Council Special Committee of the Whole
11/06/2019	Council Special Committee of the Whole	DISCUSSED	

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE 9.32, UNLAWFUL DISCHARGE
OF FIREARMS, TO ESTABLISH A NO SHOOTING ZONE IN THE
DRAYTON HARBOR AREA OF WHATCOM COUNTY**

WHEREAS, pursuant to Whatcom County Code 9.32.050 the County Council may, upon its own initiative, pass a resolution declaring its intent to form a no shooting zone; and

WHEREAS, on July 23, 2019, the Council approved Resolution 2019-035, declaring its intent to conduct a public hearing to consider creating a no shooting zone in the Drayton Harbor area of Whatcom County, as requested by the City of Blaine; and

WHEREAS, pursuant to Whatcom County Code 9.32.020 and RCW 36.32.120 the County Council has the authority and power to establish no shooting zones; and

WHEREAS, a “no shooting zone” is an area designated by the County Council in which the discharge of firearms is prohibited; and

WHEREAS, RCW 9.41.300 (2) specifically states that counties may enact laws and ordinances restricting the discharge of firearms in any portion of their respective jurisdiction where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized; and

WHEREAS, according to the request submitted by the City of Blaine (see City of Blaine Resolution No. 1765-19, attached as Exhibit A to this resolution):

- It is difficult for members of the public to distinguish between incorporated and unincorporated areas, particularly on open water, which causes numerous hunters to inadvertently move into areas where hunting and discharge of firearms is illegal;
- Citizens have expressed concerns about gunfire near homes and property and repeatedly call for police response to such incidents;
- Unincorporated portions of Drayton Harbor aquatic area, tidelands, and shoreline are within and adjacent to urban growth areas;
- Population is expanding and housing density is increasing within the areas surrounding Drayton Harbor both within the City and in areas of unincorporated Whatcom County; and

WHEREAS, twenty three other no shooting zones have been established throughout Whatcom County as a means to protect the public.

NOW THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new section of Whatcom County Code 9.32 shall be added to create a no-shooting zone in the Drayton Harbor area as outlined in Exhibit B to this ordinance.

ADOPTED this _____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

() Approved () Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: _____

Exhibit A
(Drayton Harbor No Shooting Zone – City of Blaine Resolution)

RESOLUTION NO. 1765-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLAINE, WASHINGTON,
TO SEEK DESIGNATION OF ALL UNINCORPORATED PORTIONS OF DRAYTON
HARBOR AQUATIC AREA, TIDELANDS AND SHORELINE AS A NO SHOOTING
ZONE PURSUANT TO WHATCOM COUNTY CODE 9.32 .

Whereas, portions of the Drayton Harbor aquatic area, tidelands and shoreline are within the city limits, and

Whereas, portions of Drayton Harbor aquatic area, tidelands and shoreline are within Whatcom County jurisdiction, and

Whereas, hunting and the discharge of firearms is prohibited in the city limits, and

Whereas, it is difficult for members of the public to distinguish between incorporated and unincorporated areas particularly on the open water, which causes numerous hunters to inadvertently move into areas where hunting and discharge of firearms is illegal, and

Whereas, our citizens have expressed concerns about gunfire near homes and property and repeatedly call for police response to such incidents, and

Whereas, unincorporated portion of Drayton Harbor aquatic area, tidelands and shoreline are within and adjacent to urban growth areas, and

Whereas, population is expanding and housing density is increasing within the areas surrounding Drayton Harbor both within the City and an areas or unincorporated Whatcom County,

Whereas, the Revised Code of Washington (RCW 36.32.126) provides Whatcom County authority to designate no shooting zones, and

Whereas, Whatcom County Code Section 9.32 "Unlawful Discharge of Firearms" designates twenty-two no shooting zones, most lying within and adjacent to cities, urban growth areas and other locations of higher density development,

Now therefore, the City Council of the City of Blaine hereby resolves to seek designation of all the aquatic areas and tidelands within Drayton Harbor located within Whatcom County as a no shooting zone pursuant to Whatcom County Code Section 9.32.

PASSED BY THE CITY COUNCIL OF BLAINE, WASHINGTON, on the 8th day of July, 2019, and approved by the Mayor on the same day.

CITY OF BLAINE, WASHINGTON



Bonnie Onyon, Mayor

ATTEST/AUTHENTICATE:



Samuel Crawford, City Clerk

Resolution 1765-19

Page 1 of 1

Exhibit B
(Drayton Harbor No Shooting Zone)

9.32.350 No shooting zone number 24 established.

A. No shooting zone number 24 is also known as the Drayton Harbor area.

B. The boundaries are described as follows:

That portion of Sections 7 and 18, Township 40 North, Range 1 East and Sections 1, 2, 11, 12 and 13, Township 40 North, Range 1 West, W.M., Whatcom County, Washington described as follows: Beginning along Drayton Harbor Road (Co. Rd. No. 37) at the intersection of the ordinary high water mark of Drayton Harbor with the limits of the city of Blaine, Whatcom County, Washington; thence easterly along said ordinary high water mark to the intersection with the northerly face of an existing bridge over California Creek; thence easterly along said northerly bridge face to the intersection with said ordinary high water mark; thence northerly along said ordinary high water mark to the intersection with said city limits; thence along said city limits westerly, northerly and southerly to the point of beginning.



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-624

File ID:	AB2019-624	Version:	1	Status:	Agenda Ready
File Created:	11/21/2019	Entered by:	SMildner@co.whatcom.wa.us		
Department:	County Executive's Office	File Type:	Executive Appointment		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Request confirmation of the County Executive's appointment of Jon Maberry and Kendall Whitney to the Whatcom County Food System Committee

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

See recommendation and applications

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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WHATCOM COUNTY
Health Department



Regina A. Delahunt, Director
Greg Stern, M.D., Health Officer

RECEIVED
JAN 21 2019
OK
JACK LOUWS
COUNTY EXECUTIVE

To: Whatcom County Executive Jack Louws
From: Ali Jensen, Whatcom County Health Department
Date: November 21st, 2019
Subject: Whatcom County Health Department Recommendations for the Food System Committee

Below are the Health Department's recommendations for members to fill the vacancies in the Food System Committee.

Food System Committee Recommendations		
Representing Area	Name	Recommended Term
Export Sales Farming	Jon Maberry	4 years
Fishing Industry	Kendall Whitney	4 years

Please let me know if you have any questions.

Ali Jensen
Program Specialist
Whatcom County Health Department

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



Whatcom County
HEALTH
Department

1500 North State Street
Bellingham, WA 98225-4551
360.778.6100 | FAX 360.778.6101
www.whatcomcounty.us/health



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	Jon
Last Name	Maberry
Today's Date	10/31/2019
Street Address	8680 Weidkamp Rd
City	Lynden
Zip	98264
Do you live in & are you registered to vote in Whatcom County?	Yes
Do you have a different mailing address?	Field not completed.
Primary Telephone	360.815.7093
Secondary Telephone	Field not completed.
Email Address	pcjonmaberry@gmail.com
1. Name of Board or Committee	Food System Committee
Food System Committee position:	Export Sales Farming
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 4
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? No

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 *Field not completed.*

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education
Farming, processing, and marketing both for domestic and export sales of raspberries, blueberries and strawberries
Washington Red Raspberry Commission President
Whatcom County Planning Commissioner
Laurel WID Board Member
Bachelor of Science in Aeronautical & Astronautical Engineering - University of Washington

10. Please describe why you're interested in serving on this board or commission
I believe a food system plan should include input from local industry of which I am a part of.

References (please include daytime telephone number):
Henry Bierlink - 360.815.9117

Signature of applicant: Jonathan Maberry

Place Signed / Submitted Lynden, WA



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.

First Name	Kendall
Last Name	Whitney
Date	12/20/2018
Street Address	2847 Cornwall Ave
City	Bellingham
Zip	98225
Do you live in & are you registered to vote in Whatcom County?	Yes
Do you have a different mailing address?	<i>Field not completed.</i>
Primary Telephone	3603935804
Secondary Telephone	360-685-8146
Email Address	kwhitney@spcsales.com
1. Name of Board or Committee	Food System Committee
Food System Committee position:	Fishing Industry
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 2
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?

No

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

[KendallWhitneyResume.pdf](#) – see attached.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education

I'm the Marketing Manager of Seafood Producers Cooperative, a fishermen-owned co-op with business office in Bellingham and fisheries activity up and down the West Coast, but primarily in southeast Alaska. I currently serve on the Alaska Seafood Domestic Marketing and Sablefish/Halibut Committees.

10. Please describe why you're interested in serving on this board or commission

I'd like to know more about local food issues of Whatcom County. It's also important for me to know others in the local food business.

References (please include daytime telephone number):

Jeff Reynolds, 360-733-0120

Signature of applicant:

Kendall A Whitney

Place Signed / Submitted

Bellingham, WA

Kendall Whitney

2847 Cornwall Ave
Bellingham, WA 98225
(360) 393-5804
kwhitney@spcsales.com

WORK EXPERIENCE

Marketing Manager, Seafood Producers Cooperative (SPC)

May 2014-Present

- Responsible for creating a clear and consistent message for SPC brands across websites, social media, and all other communications.
- Built from scratch a direct-to-consumer sales initiative (www.AlaskaGoldBrand.com) for a fishermen's cooperative that delivers quality sustainable fish to sushi producers in Japan, fish smokers in Brooklyn and Europe, and stores like Whole Foods.
- *Seafood Publications*: "How Producer Co-ops Save the World," *New Food Economy*, February 2016
"Setting the Standard for Frozen Wild Seafood," *New Food*, April 2017 and "A Tale of Two Seasons," *Alaska Humanities Forum* (publication date TBA)

Writing Assessment Coordinator, Western Washington University

February 2013-Present

As part of a periodic accreditation process for the College of Business and Economics (CBE), every two years I assess assignments produced by CBE students to determine if they are producing professional business documents.

Product Specialist, Alpha Technologies

August 2013-May 2014

- Conducted research on competitors, third party ventures, and new markets
- Co-wrote 2 white papers on current broadband powering trends and prepared related presentations for broadband industry's biggest trade show

Graduate Assistant, Western Washington University, Finance and Marketing Department

Fall 2011-June 2013

- Managed discussion board and grading for Strategy and Innovation/New Product Development marketing courses
- Conducted market research related to brand loyalty and technology market
- Edited articles to prepare them for publication in professional marketing journals

Research Project, Microsoft in consultation with Western Washington University

Fall 2012-June 2013

- Worked with User Experience team at Microsoft using in-depth interviews, small focus groups, and surveys to gauge student attitudes and buying behaviors with regard to tablets, specifically the Microsoft Surface

New Market Development Intern, Theo Wanne Musical Instruments

Summer 2012

- Contacted potential dealers, distributors and professional musicians in Spanish and Portuguese-speaking regions to introduce Theo Wanne products to markets in Latin America and Spain, completely new markets for the company
- Translated Theo Wanne website into Spanish
- Secured several endorsement deals, including one with the "Kenny G of Brazil"

Visiting Assistant Professor, Spanish Western Washington University

2010-2011

- Used technology to engage students in Spanish language instruction and in the current affairs of Spanish-speaking parts of the globe
- With funds from the Bill and Melinda Gates Foundation, facilitated a language exchange between university students and local immigrant families at a local library, fostering a relationship between the university and the community
- Evaluated and advised students on important decisions such as declaring a major, studying abroad, and careers

Graduate Teaching Assistant, University of Kansas

2004-2009

- Engaged students in highly interactive beginning and intermediate Spanish language classes
- Funded research trip through grants to study contemporary culture in Cuba

ESL Teacher, American English Academy/Embassy CES English Institute 2004
 • Taught English to intermediate and advanced business executive students of English from Japan, China, Germany, Turkey, Brazil, Italy, Mexico, Korea, and other countries
 • Presented key grammar points and led discussions of a wide range of business topics in Business English courses

ESL Teacher, BiCultural Madrid, Spain 2001-2003
 • Taught English to intermediate and advanced business executive students of English in Madrid and Barcelona
 • Presented key grammar points and led discussions of a wide range of business topics in Business English courses

AWARD

Northwest Innovation Resource Center (NWIRC) Entrepreneurial Challenge 2013
 • Winners of the 2013 NWIRC Entrepreneurial Challenge!
 • Consulted on the following topics: Product issues, Approach to market, Market segmentation, Pricing strategy, Sales rationale, Packaging considerations, Manufacturing cost analysis, including a Cost of startup operations as well as ongoing P&L and Minimum production volume to maintain a profitable business.

EDUCATIONAL BACKGROUND

Master of Business Administration, Western Washington University, Bellingham, WA 2011-2013
 • Worked on consulting project with one of the foremost suppliers of interior products and cabin furnishings for the aircraft industry to produce value stream maps of manufacturing processes, identifying bottleneck areas in a Lean manufacturing organization
 • Member of 2012 Excellence in Teaching Award committee

PhD, University of Kansas, Lawrence, KS 2004-2009
 • Dissertation on contemporary cultural production of post-Soviet Cuba, Mexico, Chile and Spain in relation to the globalizing processes taking place there during the late 20th-early 21st centuries.

Master of Arts, Spanish, Middlebury College, Middlebury, VT and Madrid, Spain 2002-2003
 • Activities include: Soccer team, theater, and several music ensembles

Bachelor of Arts, Whitman College, Walla Walla, WA, Spanish, minor Environmental Studies 1994-1998

VOLUNTEER WORK

After-School Reading Program, Boys & Girls Club Whatcom County 2012-2014
 • Accompany my certified therapy dog to help young boys and girls read

Volunteer (desk work, therapy dog handler, and visits with clients), Whatcom Hospice 2011-2012
 • Auctioned wine for "Light the Night" Hospice Gala Auction, an event that raised over \$225,000

Interpreter/Translator, Whatcom Alliance for Healthcare Advancement 2011-2013
 • Spanish-English Interpreter for low-income patients who lack access to health insurance



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-480

File ID:	AB2019-480	Version:	1	Status:	Agenda Ready
File Created:	09/18/2019	Entered by:	dbrown@co.whatcom.wa.us		
Department:	Council Office	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council			Final Action:	
Agenda Date:	12/03/2019			Enactment #:	

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

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code Chapters 11.16 and 11.20 to protect Lake Samish shoreline properties and Lake Samish water recreation

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This ordinance amends Code language recently adopted by the Council related to use and protection of Lake Samish. Lake Samish property owners, boaters, and recreational users have come together to understand the concerns of each group and identify a compromise which would be mutually agreeable to all parties and have developed this alternative solution supported by a majority of area residents.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
09/24/2019	Council	WITHDRAWN	
11/19/2019	Council	WITHDRAWN	

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE CHAPTERS 11.16 AND 11.20 TO PROTECT
LAKE SAMISH SHORELINE PROPERTIES AND LAKE SAMISH WATER RECREATION**

WHEREAS, a relatively new class of recreational boats carrying large amounts of water for ballast (weight) are designed to displace maximum amounts of lake water around and behind the boats; and

WHEREAS, these vessels are operating on Lake Samish, and wakes from these boats have been observed travelling to shores of Lake Samish with force sufficient to damage private property; and

WHEREAS, property owners around Lake Samish desire a balance between damage to personal property and the need for ongoing water recreation; and

WHEREAS, Lake Samish property owners, boaters, and recreational users have come together to understand the concerns of each group and identify a compromise which would be mutually agreeable to all parties; and

WHEREAS, these parties have developed an alternative solution supported by an overwhelming majority; and

WHEREAS, the Whatcom County Code currently recognizes the need to protect public health, safety, and property with regulations on the speed of vessels on Lake Whatcom, and with regulations on the manner and distance that vessels operate from the shore of Lake Whatcom; and

WHEREAS, the Whatcom County Council values the opinions of our community, the time and effort invested by community members to discuss and find a mutually agreeable solution, and the flexibility and willingness of all parties to agree to such a compromise; and

NOW BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapters 11.16 and 11.20 shall be amended as outlined in Exhibit A to this ordinance.

APPROVED this _____ day of _____, 2019.

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown Davis, Clerk of the Council

, Council Chair

APPROVED AS TO FORM:

**WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON**

Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____

EXHIBIT A

CHAPTER 11.16 OPERATION AND SPEED REGULATIONS

Sections:

11.16.010 Operation – Overloading prohibited.

11.16.020 Operation – Right-of-way rules.

11.16.030 Speed regulations.

11.16.010 Operation – Overloading prohibited.

It is unlawful for any vessel to be loaded with passengers or cargo which exceed the safe-carrying capacity of the vessel where the safe-carrying capacity of the vessel is specified by the manufacturer. Such limitation shall be considered the maximum safe load, and in no event shall a vessel be loaded beyond a capacity which is reasonable and prudent under given atmospheric conditions and other actual and potential hazards affecting operation. (Ord. 90-83 (part)).

11.16.020 Operation – Right-of-way rules.

The operation rules as between vessels are provided as follows:

- A. When two vessels are approaching each other head on, or so nearly so as to involve the risks of collision, each boat shall bear to the right and pass the other boat on its left side.
- B. One vessel may overtake another on either side but shall grant the right-of-way to the overtaken boat.
- C. When two vessels are approaching each other obliquely or at right angles, the boat approaching on the right side has the right-of-way.
- D. A vessel underway must yield the right-of-way to a craft not underway.
- E. A motor-powered vessel underway must yield the right-of-way to a sailboat, rowboat, canoe, or other vessel not propelled by a motor.
- F. A seaplane underway shall yield the right-of-way to all other vessels.
- G. A swimmer including a person on a flotation device, or a fallen skier, has the right-of-way over any craft.
- H. No vessel shall approach within 50 feet of a diver's flag indicating the presence of a person operating under water.
- I. All vessels shall reduce speed and, if necessary, stop and, in any event, yield the right-of-way upon the approach of an emergency vessel. (Ord. 90-83 (part)).

11.16.030 Speed regulations.

A. Speed Limits. No vessel shall exceed the following speeds, except as provided in Chapter 11.36 WCC:

1. Within 100 feet of a swimmer, six miles per hour;
2. Within 150 feet from docks, floats, or the shoreline on every lake except Lake Whatcom and Lake Samish ~~where the distance shall be 300 feet from docks, floats, or the shoreline (except when necessary for a safe take off as defined in WCC 11.20.010(C))~~, six miles per hour;

3. Within 100 feet of any vessel not propelled by a motor, six miles per hour;
4. One-half hour after sunset to one-half hour before sunrise, eight miles per hour;
5. During daylight hours in unrestricted areas, 40 miles per hour;
6. Within 300 feet of any public boat launch, six miles per hour;
7. Within South Bay Lake Whatcom south of a line approximately as defined as extending from 48° 40' 48" N, 122° 18' 49" W to 48° 40' 43" N, 122° 18' 36", shall be designated as a "no-wake" zone.
8. Within Lake Samish the area between county bridge No. 107 (bridge located south of, and adjacent to, Lake Samish Park) and the North-South line of 122° 24' 00" West shall be designated as a "no-wake" zone;
9. Within 300 feet of docks, floats, or the shoreline of Lake Whatcom (except when necessary for a safe take off as defined in WCC 11.20.010(C)), six miles per hour;
10. Within 300 feet of docks, floats, or the shoreline of Lake Samish, for all vessels utilized to displace water for the purpose of surfing, wakesurfing, or wakeboarding or similar activities that produce wakes for surfing, or 150 feet from docks, floats, or the shoreline for all other vessels (except when necessary for a safe take off as defined in WCC 11.20.010(C)), six miles per hour;

B. Due Care and Caution Required. Compliance with the speed regulations contained herein shall not relieve the operator of any vessel from the further exercise of due care and caution as circumstances shall require. (Ord. 2004-036 § 1; Ord. 2002-027; Ord. 90-83 (part)).

CHAPTER 11.20

WATER SKIING, SWIMMING AND SKIN DIVING REGULATIONS

Sections:

11.20.010 Water skiing.

11.20.020 Swimming.

11.20.025 Floatation devices on the South Fork of the Nooksack River.

11.20.030 Skin diving.

11.20.010 Water skiing.

A. Age Requirements. No vessel which has in tow or is otherwise assisting a person on water skis, aquaplane, surfboard, innertube or similar contrivances, shall be operated unless such vessel is occupied by at least two persons, one at least the age of 16 years, and one of at least eight years of age who shall be observer or ski-tender in addition to the operator; provided that this prohibition shall not apply to vessels used in duly authorized ski tournaments.

B. Intoxication Prohibited. No person shall ride or manipulate any water skis, aquaplane, surfboard, innertube or similar contrivance while in tow, or being assisted by a vessel, when such person is under the influence of intoxicating liquor or drugs to a degree which renders said person incapable of safely riding or manipulating such a contrivance.

C. Distance from Shoreline. Except on safe takeoffs and safe landing, vessels and persons under tow on water skis, aquaplane, surfboard, innertube or a similar contrivance, and vessels being utilized to displace water for the purpose of surfing, wakesurfing, wakeboarding, or similar activities that produce wakes for surfing must keep 150 feet or more from the dock, float, or shoreline with the exception of Lake Whatcom which shall remain at except for Lake Whatcom and Lake Samish where the distance shall be 300 feet from the shore, dock or float, and Lake Samish where the distance shall be 300 feet from

the shore, dock or float for vessels being utilized to displace water for the purpose of surfing or wakesurfing or similar activities that produce wakes for surfing and 150 feet for all other vessels. A takeoff will not be considered "safe" unless the person(s) under tow are heading away from the shore and the takeoff can be accomplished without any risk to swimmers or vessels. The person(s) under tow, but not the vessel, may come within 150 feet of the shoreline when in the process of landing, provided that the return to the shore must be at any angle of 45 degrees or more to the shoreline.

D. Other Vessels. No vessel shall follow behind a skier closer than 300 feet, not cross the towing boat bow by less than 200 feet, nor alongside a skier closer than 100 feet.

E. Personal Flotation Devices Required. Any person on water skis, aquaplane, surfboard, innertube or similar contrivance shall wear about his body a type I, II, or III personal flotation device as defined and required by the U.S. Coast Guard.

F. Conduct. Any person on water skis, aquaplanes, surfboards, innertubes, or similar contrivances shall conduct himself upon the same in a careful and prudent manner, and shall remain at all times a reasonable and prudent distance from other persons and from the property of others, and shall not come within 100 feet of a swimmer or any other vessel.

G. Hours. No vessel shall have in tow or shall otherwise assist a person on water skis, aquaplane, surfboard, innertube or a similar contrivance from one-half hour after sunset to one-half hour before sunrise; provided, that this subsection shall not apply to vessels engaged in duly authorized water ski competitions or expositions.

H. Pattern. All boats towing skiers shall go in a counterclockwise pattern.

I. Public Boat Launches. No drop-off or take-off of skier or having a person in tow within 300 feet of public boat launch.

J. Skier Down Flags. When your skier is in the water the observer must display a red or orange "skier down" flag. This flag must be 12 inches square and mounted on a two-foot pole. (Ord. 90-83 (part)).

11.20.020 Swimming.

No person shall swim or operate a paddleboard, innertube, rubber raft or similar unlicensed device except in restricted swimming areas or within a distance of 150 feet from the shore, unless the swimmer is accompanied by a vessel. (Ord. 90-83 (part)).

11.20.025 Floatation devices on the South Fork of the Nooksack River.

No person shall operate a paddleboard, innertube, inflatable floatation device, foam floatation device, limb-propelled floatation device, or rubber raft intended for limb use on the section of the South Fork of the Nooksack River between Edfro Creek and the Acme Bridge between the dates of June 1st and October 31st. The provisions of this section shall not apply to:

A. Devices engaged principally in commercial operations constituting an act of interstate or foreign commerce or bona fide scientific research;

B. Use for emergency purposes when there is reasonable belief that such use is necessary to protect or preserve persons, animals or property;

C. Use by law enforcement agencies to enforce the above provisions;

D. Department of Natural Resources-designated and Whatcom County-designated swimming/boating areas on the South Fork of the Nooksack River. (Ord. 2005-089 Exh. A).

11.20.030 Skin diving.

- A. No person shall operate (swim, float or walk) under water with the aid of any artificial device such as snorkel or self-contained underwater breathing apparatus (scuba) beyond 100 feet from the shoreline unless closely accompanied by a boat displaying a diver's flag or unless marked by a diver's flag above the water surface and above the operator's position in the water.
- B. The underwater operator shall keep within a 50-foot horizontal radius of the diver's flag at all times.
- C. No person shall display any diver's flag except during the period a person is operating under water within the vicinity of the diver's flag.
- D. Separate diver's flags shall be displayed for each person so operating under water.
- E. No person shall operate under water, except with a permit issued at the discretion of the sheriff's department, within a 300-foot horizontal radius of any boat ramp or landing wharf of any boat marina, nor shall such person operate within a 100-foot horizontal radius of any platform normally used for diving. (Ord. 90-83 (part)).



Whatcom County

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

Agenda Bill Master Report

File Number: AB2019-614

File ID:	AB2019-614	Version:	1	Status:	Agenda Ready
File Created:	11/20/2019	Entered by:	BBushaw@co.whatcom.wa.us		
Department:	Public Works Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:			
Agenda Date:	12/03/2019	Enactment #:			

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

TITLE FOR AGENDA ITEM:

Ordinance amending Whatcom County Code, 16.30, Lake Whatcom Stormwater Utility Funding Mechanism, changing the date for collection of Capital Facility Charges from January 1, 2020 to January 1, 2021

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Whatcom County Public Works requests an amendment to Ordinance 2019-53, Lake Whatcom Stormwater Utility Funding Mechanism, to initiate the Capital Facilities Charges in January 2021 rather than January 2020. The requested time extension is needed to develop an effective collection process and to clarify ambiguous language included in Section 11 of Whatcom County Code 16.30

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
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**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Jon Hutchings
Director**



STORMWATER
322 N. Commercial, Suite 224
Bellingham, WA 98225
Main: (360) 778-6210
FAX: (360) 778-6201
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Jack Louws, County Executive and
The Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director

FROM: Kraig Olason, Stormwater Program Manager

DATE: November 19, 2019

RE: Request for Amendment to Ordinance 2019-053, Lake Whatcom
Stormwater Utility Funding Mechanism

Requested Action

The Public Works Department requests that County Council amend Ordinance 2019-053 to change the initiation date for collection of the Capital Facilities Charge (CFC) from January 1, 2020 to January 1, 2021.

Background and Purpose

Whatcom County Council adopted Ordinance 2019-053 (codified as WCC 16.30), the Lake Whatcom Stormwater Utility Funding Mechanism in July 2019. Section 11.0 of WCC 16.30 calls for collection of a one-time CFC on new residential and commercial developments, effective January 1, 2020. Public Works reviewed this ordinance language and finds that: (1) the language is ambiguous as to legislative intent, and (2) does not provide a convenient mechanism for fee collection. Public Works seeks to delay the implementation of this fee to January 1, 2021 to allow time to propose clarifying language and to develop a suitable fee collection method. The ordinance includes a phase-in provision for the annual rate fee portion of the ordinance wherein 50% of the annual unit rate fee is collected in 2020 and 100% is collected in 2021. Delaying the effective date of the CFC would be consistent with this phased approach.

Please contact Kraig Olason at 6301, if you have any questions or concerns regarding this request.

Encl.

PROPOSED BY: Public Works_
INTRODUCTION DATE: _____

ORDINANCE NO. _____

**AUTHORIZING A CHANGE TO ORDINANCE 2019-053, WHICH AUTHORIZED
CHARGES FOR STORMWATER CONTROL FACILITIES AND PROGRAMS IN THE LAKE
WHATCOM STORMWATER UTILITY SERVICE AREA, SPECIFICALLY EXTENDING
COLLECTION OF CAPITAL FACILITIES CHARGES TO 2021**

WHEREAS, the Whatcom County Council adopted Ordinance 2019-053 on July 23, 2019 authorizing fees for the Lake Whatcom Stormwater Utility; and

WHEREAS, Ordinance 2019-053 calls for one-time charges on new residential and commercial developments/structures, effective January 1, 2020; and

WHEREAS, certain provisions related to these Capital Development Charges are ambiguous and create unclear legislative intention around the extent and method for collection; and

WHEREAS, additional time is needed to clarify the terms of the ordinance and to develop a suitable method for collection of fees; and

WHEREAS, 2020 is established in the Ordinance as a phase-in period with collection of annual fees at 50%; and

WHEREAS, delaying implementation of the Capital Facilities Charge until January 1, 2021 will allow time to clarify the code language and develop a suitable fee collection method

1
2
3 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that
4 collection of the Capital Facility Charge established under Ordinance 2019-053 shall
5 prospectively begin on January 1, 2021.
6

7 **ADOPTED** this ____ day of ____, 20____.
8
9

10
11 ATTEST:
12

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

13
14 _____
15 Dana Brown-Davis, Clerk of the Council
16

Rud Browne, Council Chair

17 WHATCOM COUNTY EXECUTIVE
18 APPROVED AS TO FORM:
19

WHATCOM COUNTY, WASHINGTON

20

21 _____
22 Christopher Quinn, Civil Deputy
23 Prosecutor
24

Jack Lowes,
County Executive

() Approved () Denied

Date Signed: _____
25
26
27
28
29