

February 4, 2008

Marysville City Council Work Session
7:00 p.m.

City Hall

Call to Order

Pledge of Allegiance

Roll Call

Committee Reports

Presentations

Discussion Items

Approval of Minutes (*Written Comment Only Accepted from Audience.*)

1. Approval of January 28, 2008 City Council Meeting Minutes.
2. Approval of February 4, 2008 City Council Work Session Minutes.

Consent

3. Approval of January 30, 2008 Claims in the amount of \$_____ ; Paid by Check No.'s _____ through _____.
4. Approval of February 6, 2008 Claims in the amount of \$_____ ; Paid by Check No.'s _____ through _____ .
5. Approval of February 4, 2008 Payroll in the Amount of _____ ; Paid by Check No's _____ through _____.

Review Bids

Public Hearings

New Business

6. A **Resolution** of the City of Marysville Declaring Annual Accumulations of Scrap Metal Valued Not More than \$10,000 to be Surplus and Authorizing the Sale or Disposal Thereof.
7. Adoption of an Interagency Agreement with Snohomish County for Participation in the County's 2008 Overlay Program.
8. State Avenue 136th Street NE to 152nd Street NE Roadway Improvements – Obligation of Federal Funds for Construction.

Work Sessions are for City Council study and orientation – Public Input will be received at the February 11, 2008 City Council meeting.

Marysville City Council Work Session

February 4, 2008

7:00 p.m.

City Hall

9. Visitor & Community information Center Services Agreement with the Greater Marysville Tulalip Chamber of Commerce & City of Marysville.
10. Wheeling Agreement Compensating the City of Marysville for the City of Everett Water Utilized through the JOA Pipeline by the Tribes.
11. Personal Services Agreement with Gwendolyn Campbell to Perform Services and Complete Projects for the City of Marysville Related to Human Resource Projects and Services.

Legal

Mayor's Business

Staff Business

Call on Councilmembers

Adjourn

Executive Session

- A. Litigation
- B. Personnel
- C. Real Estate

Adjourn

Special Accommodations: The City of Marysville strives to provide accessible meetings for people with disabilities. Please contact Kristie Guy, Human Resources Manager, at (360) 363-8000 or 1-800-833-6384 (Voice Relay), 17-800-833-6388 (TDD Relay) two days prior to the meeting date if any special accommodations are needed for this meeting.

Work Sessions are for City Council study and orientation – Public Input will be received at the February 11, 2008 City Council meeting.

**CITY OF MARYSVILLE
EXECUTIVE SUMMARY FOR ACTION**

CITY COUNCIL MEETING DATE: February 11, 2008

AGENDA ITEM: Surplus Scrap Metal	AGENDA SECTION:	
PREPARED BY: Mike Shepard , Fleet & Facilities Manager	AGENDA NUMBER:	
ATTACHMENTS: Scrap Metal Resolution	APPROVED BY: 	
	MAYOR	CAO
BUDGET CODE: Various	AMOUNT \$10,000.00	

The City accumulates a certain amount of scrap metal each year that is no further use or necessity to the City. The attached Resolution will authorize the Mayor or the Mayor's designee to sell or dispose of said annual accumulations of scrap metal in a manner, which in the discretion of the Mayor or the Mayor's designee, is cost effective and will net a reasonable return to the City.

Accumulations of scrap metal will be collected and stored in a container at the Public Works Campus. Once the container is full a scrap metal a dealer will pick up the container and haul it to their place of business. The container will be weighed and the appropriate market rate less overhead will be paid to the City.

The annual value of scrap metal will not exceed \$10,000.00

RECOMMENDED ACTION: Staff recommends that Marysville City Council authorize the Mayor to sign a Resolution declaring annual accumulations of scrap metal valued not more than \$10,000 to be surplus and authorizing the sale or disposal thereof.
COUNCIL ACTION:

CITY OF MARYSVILLE
Marysville, Washington

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF MARYSVILLE DECLARING ANNUAL ACCUMULATIONS OF SCRAP METAL VALUED NOT MORE THAN \$10,000 TO BE SURPLUS AND AUTHORIZING THE SALE OR DISPOSAL THEREOF.

WHEREAS, the City accumulates a certain amount of scrap metal each year that is of no further public use or necessity and the annual value of which does not exceed \$10,000.00; and

WHEREAS, it is in the public interest for said annual accumulations of scrap metal to be sold or disposed of in a cost effective manner that the Mayor or the Mayor's designee determines will net a reasonable return to the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON AS FOLLOWS:

Section 1. Annual accumulations of scrap metal by the City in an amount not exceeding \$10,000 are hereby declared surplus to the foreseeable needs of the City.

Section 2. It is deemed to be in the public interest for the City to sell or dispose of said annual accumulations of scrap metal in a cost effective manner that will net a reasonable return to the City.

Section 3. The Mayor or the Mayor's designee is hereby authorized to sell or dispose of said annual accumulations of scrap metal in a manner, which in the discretion of the Mayor or the Mayor's designee, is cost effective and will net a reasonable return to the City.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____ 2008.

CITY OF MARYSVILLE

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 11, 2008

AGENDA ITEM: Adoption of an Interagency Agreement with Snohomish County for participation in the County's 2008 Overlay Program	AGENDA SECTION: New Business	
PREPARED BY: Jeff Laycock, Associate Transportation Engineer II	AGENDA NUMBER:	
ATTACHMENTS: Interagency Agreement with Snohomish County (2 copies) Graphic of Overlay Locations	APPROVED BY: 	
	MAYOR	CAO
BUDGET CODE: 10200030.541000	AMOUNT: \$620,000	

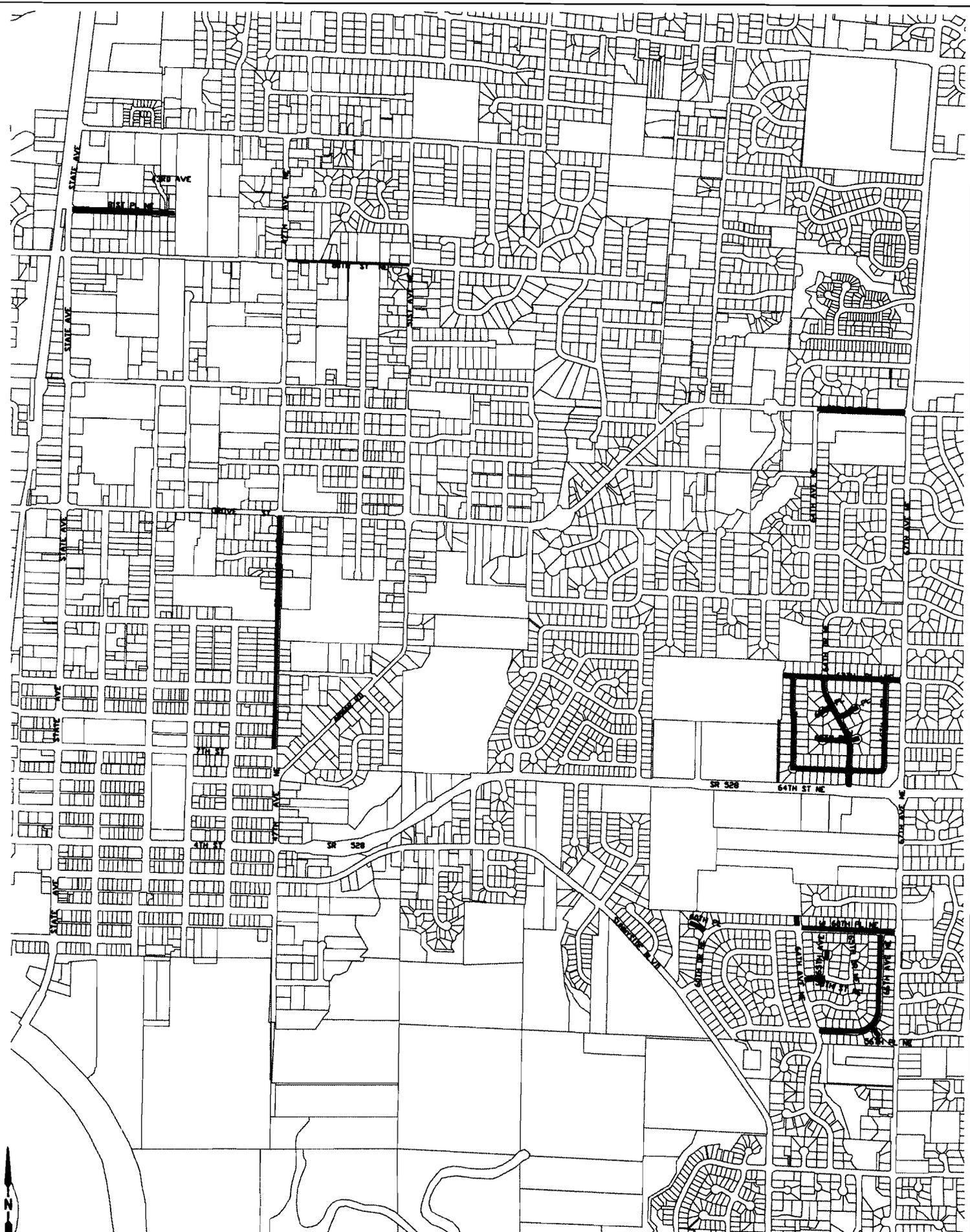
Snohomish County provides the opportunity for Cities to participate in their annual Street Overlay Program. A savings is achieved by participating with the County due to the economy of scale.

Several streets have been prioritized in the city for overlay in 2008. These streets were selected based off of ratings performed in the 2000 Pavement Management System study as well as a current visual rating. Furthermore, City staff recognized the need to prioritize the overlays in conjunction with water and sewer replacements. Some of the City's sewer and water system is outdated and is comprised of aging, brittle pipe. City staff is in the process of implementing a program to replace these utilities and the following year, overlay the roadway.

This agreement authorizes the County to include Marysville's projects in the County's 2008 Overlay program. The total budget available for professional services for overlays is \$800,000. Approximately \$180,000 of the total budget will go towards the 47th Ave NE project, from 7th St to Grove St. 47th Ave is a separate project involving road widening, curb, gutter, and sidewalk; and drainage improvements. City staff identified the need to overlay 47th Ave NE and will be using the funds from the 2008 County Overlay program to do so.

The cost to the City for participating in the Snohomish County 2008 Overlay Program is estimated at this time to be \$620,000 which includes the overlay and associated County engineering fees.

RECOMMENDED ACTION: City staff recommends that City Council authorize the Mayor to sign the Interagency Agreement with Snohomish County for the 2008 Overlay Program.
COUNCIL ACTION:



2008 COUNTY OVERLAY

After Recording Return To:
Snohomish County Council
MS #609

**INTERAGENCY AGREEMENT
BETWEEN
SNOHOMISH COUNTY AND THE CITY OF MARYSVILLE
2008 OVERLAY PROGRAM**

THIS AGREEMENT is made and entered into by and between Snohomish County, a political subdivision of the State of Washington, hereinafter called the "County", and the City of Marysville, a Washington municipal corporation, hereinafter called the "City", in accordance with the Interlocal Cooperation Act, Chapter 39.34 RCW.

WHEREAS, the County's 2008 County Overlay Program, hereinafter referred to as the "Program," provides for asphalt paving work at various locations throughout the County, including projects within participating cities that have entered into interagency agreements with the County; and

WHEREAS, the anticipated Program work includes design, engineering, placement of hot mix asphalt, road pulverization, and other related work; and

WHEREAS, the City desires to participate in the Program and the County agrees to permit the City to participate in the Program subject to the terms and conditions of this Agreement; and

WHEREAS, the County intends to contract through competitive bidding in accordance with all applicable laws and regulations to accomplish the Program and anticipates that the work will be completed by June 1, 2009; and

WHEREAS, the parties can achieve cost savings and mutual benefits in the public's interest by undertaking the Program in accordance with this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

I. GENERAL TERMS AND CONDITIONS

- A. The County shall be the lead agency, or administrator, for the Program and shall be the lead agency with regard to design, construction and other matters pertinent to accomplishment of the Program.
- B. The parties to this Agreement shall appoint a contact person or persons to act as liaison for the Program. These contact persons will meet on an "as needed" basis to provide guidance for the Program and to coordinate between the two parties.
- C. By entering into this Agreement the City authorizes its designated contact person to establish the final list of projects as described in Section II, paragraph A and agrees to pay County all costs for such projects as set out in Section VI, paragraph A.
- D. The final acceptance of the Program and all projects undertaken through the Program shall be by the County.
- E. The project schedule for the Program shall be determined by the County.
- F. By signing this Agreement, the City certifies to the County that the City owns the real property or right-of-way upon which its projects are located and additional real property or right-of-way is not needed for those projects submitted for inclusion in the Program.
- G. The City shall obtain and provide a copy to the County of all permits necessary for the projects within its jurisdiction, prior to the time the County advertises for bids for the Program.
- H. The County will include language in the Program contract that will allow the City to reduce the scope of contract work for City projects should the bids exceed the engineer's estimate for specific projects or should unexpected City budget constraints occur.
- I. The Program includes items for asphalt paving, grinding bituminous pavement, traffic control labor, monument case and cover adjustments, and roadway pulverization for projects included in the Program.
- J. The parties may mutually agree by way of a Letter of Understanding (which shall constitute a contract amendment once

fully executed in accordance with the requirements of Chapter 39.34 RCW), that the County may perform preliminary engineering under this Agreement for City projects that may be included in the following year's Program. Payment for such preliminary engineering shall be made according to the terms of the Letter of Understanding and applicable law.

II. CITY PROJECT SUBMITTALS

- A. Following execution of this Agreement, the City shall prepare and submit to the County a prioritized list of projects the City proposes for inclusion in the Program.
- B. For each project on the list the City shall include the route, beginning and ending termini, and type of work required, i.e. depth of overlay, grinding or feathering at termini, or grinding adjacent to curbs.
- C. The City shall not submit any projects for inclusion in the Program for which City costs for design, right-of-way acquisition, or construction are reimbursable with Federal Funds, or Federal Grants.
- D. The contract cost estimate plus a 10% contingency for the final list of City projects is the maximum amount payable to the County by the City under this Agreement
- F. Before authorizing work for City projects exceeding the maximum amount payable for this Agreement, the County shall obtain written approval from the City. The City may request that extra projects be added to the Program by submitting a written letter authorizing Snohomish County and its contractor to perform such extra work. If accepted by the County, as evidenced by the signature thereon of the County Executive or his designee, the City shall be liable for all cost increases, if any, which may be incurred by adding this additional work to the Program.

III. DESIGN

- A. The County shall perform all design and engineering services for the Program, in accordance with all applicable standards relative to the overlay program and after consulting with the City.

IV. BIDDING AND CONTRACTING

- A. The County shall prepare the construction documents and incorporate them into the Program contract Bid Documents in such manner as to separately identify the cost for each project included in the City's portion of the Program.
- B. The County shall advertise for bids for the Program contract in the official legal publication for the County and, if necessary, other newspapers to provide the widest possible coverage commensurate with the size of the Program.
- C. The County will provide to the City a copy of the plans and specifications for City projects advertised for bid.
- D. The County will tabulate the bids. The County shall provide to the City a dated, verified copy of the bid tabulations for the portion of the Program that includes the City's projects. The bid tabulations will also indicate the estimated construction costs for the City's projects.
- E. The City shall be financially responsible for its portion of the final list of projects included in the construction contract.
- F. The County shall award the contract to the lowest responsible bidder for the total Program, at its sole determination, subject to applicable laws and regulations.

V. CONTRACT ADMINISTRATION

- A. The County shall provide the engineering, administrative, inspection, and clerical services necessary for the execution of the Program. In providing such services, the County Engineer may exercise all the powers and perform all the duties vested in him by law.
- B. The City may furnish an inspector to ensure proper compliance with the requirements of the plans and specifications during performance of the City's portion of the Program. The City's inspector shall advise the County of any deficiencies noted. The City's inspector shall not communicate directly with or instruct the contractor directly on any matters regarding the contractor's performance.
- C. The City shall notify the County, in writing, of any changes it wishes be made in the plans and specifications that affect the City's

portion of the Program. The County shall make such changes, if feasible. The County shall notify the City of any changes required by the County that substantially change the nature of the City's portion of the Program, its estimated cost, or its basic design, and the County shall obtain the City's approval of such changes before implementing the changes.

- D. The City hereby grants the County right of entry into its jurisdictional boundaries for the purpose of performing any and all tasks necessary to complete the Program.
- E. The City will be invited to attend the preconstruction meeting.
- F. The City shall be responsible for providing any additional notification for City projects, such as door to door flyers, if the City desires such notice.
- G. The County will at all times keep the City advised as to the progress of the Program, and will not order or approve any changes in the approved project design that substantially change the nature of said project without first consulting the City.

VI. PAYMENT

- A. The County shall bill the City for actual expenses incurred for activities associated with performing the City's portion of the Program, on no more than a monthly basis. These bills will reflect actual costs including an administrative overhead rate of 15% on direct labor. All payments shall be due within 30 days of the billing date, with interest accruing at the rate of one percent per month on any delinquent charges, beginning 30 days after the billing date.
- B. In the event a lawsuit is instituted to enforce the payment obligations of the City, the prevailing party shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees.

VII. DURATION/TERMINATION

- A. This Agreement will become effective upon the signing of this agreement by both parties, and will remain in effect until terminated by:
 - (1) 30 days' advance written notice by either party, or
 - (2) completion of the objectives and full payment for the objectives of this agreement.

- B. In the event of termination prior to completion of the objectives of this Agreement, all direct and indirect phasing-out costs shall be paid by the party requesting termination. Termination costs claimed shall not exceed the actual costs incurred as a result of termination of the Program.

VIII. INDEMNIFICATION AND HOLD HARMLESS

Each party hereto agrees to indemnify and hold harmless the other party, and its officers, agents and employees, for all claims (including demands, suits, penalties, losses, damages or costs of any kind whatsoever) including costs and reasonable attorney's fees, to the extent such a claim arises or is caused by the indemnifying party's own negligence or that of its officers, agents or employees in performance of this agreement.

IX. OTHER PROVISIONS

- A. The County shall be deemed an independent contractor for all purposes, and the employees of the County or any of its contractors, subcontractors and employees shall not in any manner be deemed to be employees or agents of the City.
- B. No liability shall attach to the City or the County by reason of entering into this Agreement except as expressly provided herein.
- C. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the non-breaching party which shall be attached to the this Agreement and incorporated herein as an amendment.
- D. Each party shall retain ownership and usual maintenance responsibility for the roads and sidewalks within their jurisdiction upon completion of any work under this Agreement. Any real or personal property acquired or used by any party in connection with this Agreement will be acquired, held, and disposed of by that party in its discretion and other party will have no joint or other interest therein. Upon termination of this Agreement, real and personal property acquired through this Agreement shall be retained or disposed of in the manner provided by law.

- E. This Agreement contains the entire written agreement of the parties and supersedes all prior discussions. This Agreement may be amended only in writing, signed by both parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year last written below.

SNOHOMISH COUNTY

CITY OF MARYSVILLE

Snohomish County Executive

Name

Date

Title

Date

Attested By: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:



Deputy Prosecuting Attorney

City Attorney

1/10/08

Date

Date

**CITY OF MARYSVILLE
EXECUTIVE SUMMARY FOR ACTION**

City Council Meeting Date: February 11, 2008

AGENDA ITEM: State Avenue 136 th Street NE to 152 nd Street NE Roadway Improvements – Obligation of Federal Funds for Construction	AGENDA SECTION: New Business	
PREPARED BY: Patrick Gruenhagen, Project Manager	AGENDA NUMBER:	
ATTACHMENTS: 1. Local Agency Agreement Supplement No. 2	APPROVED BY: 	
	MAYOR	CAO
BUDGET CODE: 30500030.563000, R-0301	AMOUNT: \$1,400,000.00 (<i>income</i>)	

The City has been granted \$2.014 Million in Federal Surface Transportation funds for this project. To date, \$614,000 of that total has been obligated to cover preliminary engineering expenses, leaving a \$1.4 Million balance available for construction. The attached Local Agency Agreement supplement, once executed, will allow the City to bill against the \$1.4 Million fund balance.

By entering into this agreement, the City reaffirms its commitment to WSDOT to conform with guidelines concerning the expenditure of Federal funds. Consequently, the City is obligated to abide by the various requirements set forth in the WSDOT Local Agency Guidelines Manual, relating to construction contract administration, the hiring of consultants and contractors, and the acquisition of Right of Way.

The City achieved a key milestone in June 2007, receiving NEPA environmental clearance from the Federal Highway Administration. Through the acquisition of necessary permits, and with final design and Right of Way acquisition now nearly complete, the project is poised to be advertised for bid in March, with construction commencing approximately two months thereafter.

RECOMMENDED ACTION: Staff recommends that the City Council authorize the Mayor to sign the Local Agency Agreement Supplement No. 2 between the City and WSDOT, allowing the City to obligate and thereby bill against the remaining \$1.4 Million in Federal grant monies.
COUNCIL ACTION:

Local Agency Agreement Supplement

Agency City of Marysville		Supplement Number 2
Federal Aid Project Number STPUL-2691 (004)	Agreement Number LA-5939	CFDA No. 20.205 (Catalog of Federal Domestic Assistance)

The Local Agency desires to supplement the agreement entered into and executed on _____.
 All provisions in the basic agreement remain in effect except as expressly modified by this supplement.
 The changes to the agreement are described as follows:

Project Description

Name State Avenue Phase III, 136th Street NE to 152nd Street NE Corridor Length 1.1 miles
 Termini 136th Avenue NE (South) / 152nd Avenue NE (North)

Description of Work No Change

Reason for Supplement

To obligate funds for construction.

Does this change require additional Right of Way or Easements? Yes No

Type of Work	Estimate of Funding				
	(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE					
86.5 % a. Agency	36,994.00		36,994.00	4,994.00	32,000.00
b. Other Consultant	658,960.00		658,960.00	88,960.00	570,000.00
c. Other					
Federal Aid Participation Ratio for PE d. State	13,873.00		13,873.00	1,873.00	12,000.00
e. Total PE Cost Estimate (a+b+c+d)	709,827.00		709,827.00	95,827.00	614,000.00
Right of Way					
% f. Agency					
g. Other					
Federal Aid Participation Ratio for RW h. Other					
i. State					
j. Total R/W Cost Estimate (f+g+h+i)					
Construction					
k. Contract	0.00	1,546,820.00	1,546,820.00	208,820.00	1,338,000.00
l. Other					
m. Other					
n. Other					
86.5 % o. Agency		57,804.00	57,804.00	7,804.00	50,000.00
Federal Aid Participation Ratio for CN p. State		13,872.00	13,872.00	1,872.00	12,000.00
q. Total CN Cost Estimate (k+l+m+n+o+p)		1,618,496.00	1,618,496.00	218,496.00	1,400,000.00
r. Total Project Cost Estimate (e+j+q)	709,827.00	1,618,496.00	2,328,323.00	314,323.00	2,014,000.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

Washington State Department of Transportation

By _____

By _____

Title City of Marysville Mayor

Director of Highways and Local Programs

Date Executed _____

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 11, 2008

AGENDA ITEM: Visitor and Community Information Center Services	AGENDA SECTION:	
PREPARED BY: Sandy Langdon, Finance Director	AGENDA NUMBER:	
ATTACHMENTS: Proposed Agreement	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT: \$31,000.00	

The City of Marysville has contracted with The Greater Marysville Tulalip Chamber of Commerce for visitor and community information services since 2004. The latest contract expired December 31, 2007 and both the City and the Chamber wish to renew this agreement.

The City of Marysville together with the Greater Marysville Tulalip Chamber of Commerce and Tulalip Tribes have worked together on joint efforts to foster economic growth in our community.

The proposed agreement is for one year commencing January 1, 2008 through December 31, 2008 in the amount of \$31,000, which is the same amount as last year.

RECOMMENDED ACTION: City staff recommends that City Council authorize the Mayor to sign the Visitor and Community Information Center Services Agreement with the Greater Marysville Tulalip Chamber of Commerce.

COUNCIL ACTION:

**VISITOR & COMMUNITY INFORMATION CENTER
SERVICES AGREEMENT**

**THE GREATER MARYSVILLE TULALIP CHAMBER OF COMMERCE
& CITY OF MARYSVILLE**

The CITY OF MARYSVILLE, a first-class municipal corporation of the State of Washington (hereinafter the "City"), with offices located at City Hall, 1049 State Avenue, Marysville, Washington, 98270, and THE GREATER MARYSVILLE TULALIP CHAMBER OF COMMERCE, 8825 34th Avenue NE, Suite C, Marysville, Washington, 98271 (hereinafter the "Contractor"), in consideration of the mutual covenants herein, do hereby agree as follows:

- I. **PURPOSE:** This Agreement covers the partial funding of a Visitor & Community Information Center which is a joint economic development project of The Greater Marysville Tulalip Chamber of Commerce, the City of Marysville and the Tulalip Tribes.
- II. **TERM OF AGREEMENT:** Notwithstanding the date of execution hereof, this Agreement shall be in effect from January 1, 2008 to December 31, 2008 both dates inclusive.
- III. **LIAISON:** The City's officer responsible for this Agreement is Mary Swenson the Chief Administrative Officer. The Contractor's responsible person is Caldie Rogers, the President/CEO.
- IV. **SCOPE OF WORK:** See Exhibit "A" attached and incorporated herein by this reference.
- V. **PAYMENT:** Contractor shall be paid \$31,000.00 per year payable in the first quarter of 2008.
- VI. **EXTRA WORK AND CHANGE ORDERS:** Work in addition to, or different from, that provided for in the Scope of Work section, shall only be allowed by prior authorization in writing, as a modification to this Agreement. Such modifications shall be attached hereto and made a part hereof, and shall be approved in the same manner as this Agreement.
- VII. **LIABILITY AND INSURANCE:** The Contractor agrees to defend the City, hold it harmless, and indemnify it as to all claims, suits, costs, fees and liability arising out of the acts or work of the Contractor, its employees, subcontractors, or agents (including field work) pursuant to this Agreement, where such liability is incurred as a result of the actions or omissions of such parties. Contractor will obtain and maintain in force at least the following minimum insurance coverage covering all activity under this Agreement, and as to which the City shall be named as additional insured:

A. Workers Compensation	Statutory Amount
B. Broad Form comprehensive General Liability	\$1,000,000

C. Automobile Liability

\$ 500,000

Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this contract shall not be limited in any way by any limitation on benefits payable to or for any third party under the workers' compensation acts.

An insurance certificate showing the coverage required under this paragraph VIII will be submitted to the City annually. The City, its officers, agents and employees shall be named as additional insured's as it respects the obligations under this agreement.

VIII. COMPLIANCE WITH LOCAL LAWS: The Contractor shall comply with all applicable laws, ordinances, and codes and statutes of the State and local governments.

IX. DEFAULT AND REMEDIES:

A. Should either party hereto believe that the other has failed to substantially perform all or a material part of its obligations under the Agreement, it shall deliver written notice to that effect to the other, specifying the alleged default and giving the other party fifteen (15) days to cure such default. Thereafter, should the default not be remedied to the satisfaction of the non-defaulting party, this Agreement may be terminated by the non-defaulting party upon seven (7) days written notice (delivered by certified mail).

B. In the event of default by either party, the non-defaulting party may, at its option, bring suit to either recover damages resulting from the default or, alternatively, seek specific performance of this Agreement.

C. Should a party file suit to enforce the provisions of this Agreement, including without limitation a suit seeking damages for default, the substantially prevailing party shall be entitled to recoup its legal expenses, including reasonable attorney's fees incurred, in connection with such effort.

D. If either party defaults without legal excuse in timely fulfilling any monetary obligation owed to the other party hereunder, the obligation shall bear 12% simple interest from the date of default until paid in full.

X. ASSIGNMENT: Neither party shall assign or delegate any or all interests in this Agreement without first obtaining the written consent of the other party.

XI. VENUE STIPULATION: This Agreement has been and shall be considered as having been made and delivered within the State of Washington, and shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action in law or equity, or judicial proceeding for the enforcement of this Agreement or any of the

provisions contained therein, shall be instituted and maintained only in Snohomish County Superior Court, Everett, Washington.

- XII. STATUS OF CONTRACTOR: Neither the Contractor nor personnel employed by the Contractor shall acquire any rights or status in the City's employment, nor shall they be deemed employees or agents of the City for any purpose other than as specified herein. Contractor shall be deemed an independent contractor and shall be responsible in full for payment of its employees, including workers' compensation, insurance, payroll deductions, and all related costs. Further, Contractor represents that it is customarily in the business of providing the services described in this Agreement, has its own place of business, is eligible for and does file with the Internal Revenue Service a schedule of business expenses, has established an account with the State Department of Revenue and has received a unified business identifier number, and maintains a separate set of books and records for such business.

EXECUTED, this the _____ day of _____, 2008, for the Contractor,
THE GREATER MARYSVILLE TULALIP CHAMBER OF COMMERCE:

President/CEO

EXECUTED, this the _____ day of _____, 2008, for the
CITY OF MARYSVILLE:

Mayor

Attest: _____
City Clerk

Approved as to form:

City Attorney

EXHIBIT A

VISITOR & COMMUNITY INFORMATION CENTER

SCOPE OF WORK

The goal of the Visitor & Community Information Center (VCIC) is to strengthen area economy by promoting the greater Marysville Tulalip area as a desirable place to visit whether for leisure, business, or culture with a focus on enhancing the visibility and growth of businesses within the visitor market; and 2) promoting the greater Marysville Tulalip area as a desirable place to invest and live in.

Free travel and recreation counseling services will be provided to visitors and residents 9:00 a.m. to 5:00 p.m., seven days a week from Memorial Day through Labor Day and Mondays through Fridays from Labor Day to Memorial Day. Free community and business information will be provided to residents, current and potential investors and businesses year-round Mondays through Fridays from 9:00 a.m. to 5:00 p.m.

A summary of contacts and services rendered will be tracked and reported monthly in writing to the City's project manager.

The Chamber's scope of work regarding the Visitor & Community Information Center will include:

- Organize and coordinate an ongoing Volunteer Travel Counselor Development Program to include recruitment, placement, training, supervising, recognition and evaluation of volunteers;
- Plan and direct the activities of the Visitor & Community Information Center including: developing a comprehensive information network, monitoring and updating changes in information, collecting and distributing literature and materials, providing promotional display areas in the Visitor & Community Information Center, and providing Voter's Registration services;
- Develop cooperative relations with local and statewide chambers of commerce, information centers, visitor and convention bureaus, local community service organizations, other tourist attractions and the State of Washington's Division of Tourism, providing an environment required to adequately respond to requests from visitors, locals and businesses for information and referrals;
- Coordinate approved public use of chamber facilities including scheduling use, supervising and monitoring use, assisting users as required, and identifying and reporting safety and maintenance concerns;

- Maintain and distribute literature and materials reasonably required for the proper and efficient operation of the Visitor & Community Information Center;
- Collect and display tourism and recreation promotional videos;
- Maintain a record keeping system, resource library and community information data bases;
- Manage the administrative functions of the Visitor & Community Information Program including: recruiting, hiring, training, supervising and evaluating the Visitor Services staff, includes full-time, part-time, temporary, interns and students.
- Serve as a distribution point for materials generated and provided by the City's economic development committees.
- Assist the City's economic development efforts by providing available information to committees as requested.
- Direct businesses seeking relocation to the City's Community Development Director or appropriate City staff.
- Provide a monthly report documenting businesses seeking location and/or relocation to the region.
- Work collaboratively with City staff to ensure that efforts are not duplicated and enhanced services are provided to both parties.

In an effort to keep all parties informed with the progress and successes of this agreement the parties agree to the following:

- The Chamber President will meet on a monthly basis with the City's Chief Administrative Officer to ensure adequate lines of communication exist between both parties.
- The Chamber President/CEO and four Chamber Board members will meet with the Mayor, Chief Administrative Officer and three Council members, on a quarterly basis to review the status of the contract.

**CITY OF MARYSVILLE
EXECUTIVE SUMMARY FOR ACTION**

CITY COUNCIL MEETING DATE: February 11, 2008

AGENDA ITEM: Amendment to the 1995 Wheeling Agreement	AGENDA SECTION: Consent	
PREPARED BY: Kevin Nielsen, City Engineer	AGENDA NUMBER:	
ATTACHMENTS: • Modification to the Wheeling Charge	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE: None	AMOUNT: \$0	

The 1995 Wheeling Agreement was entered into with the Tulalip Tribes to provide water at several connections through the Marysville System. This agreement acknowledges that the Tribes will reimburse the City for the use of the distribution system or construct a dedicated line at their expense. It was decided that the Tribes would wheel water using the Marysville System.

Within the Wheeling Agreement there is a formula used to capture the cost of wheeling water. This formula was very awkward and hard to manage that no party totally agreed with. Therefore, the formula was changed to be user friendly for both parties in the execution of this agreement.

RECOMMENDED ACTION: City staff recommends that City Council authorize the Mayor to sign the Wheeling Agreement Amendment between the City of Marysville and the Tulalip Tribes.
COUNCIL ACTION:

Draft

Changes to the 1995 Wheeling Agreement

Modify Section

VIII

The City will be compensated for the City of Everett water utilized through the JOA pipeline as defined as "JOA Water Rate" and though a "Capital Capacity Recovery" for water transmittal through the existing water distribution system. The Cost to the TRIBES shall be the sum of the "Capital Capacity Recovery" plus the "JOA Water Rate." The cost to the Tribes shall be adjusted yearly on December 31st based upon costs and water quantities established one year prior to the effective date (e.g., December 31, 2007, adjusted cost based upon the 2006 costs and water quantities).

The rate to be paid by the TRIBES to the City for water shall be based on the sum of the "Sum of the JOA Water Rate" plus the "Capital Capacity Recovery" computed from the following formulas:

1. "JOA Water Rates" at termination of JOA pipelines - storage needs provided by each purveyor.

$$R = E + \frac{(P + M)(1.0 + OH) + 1.25DS + TD}{QE}$$

- R = JOA water rate (per 100 cf)
E = Everett cost (per 100 cf)
P = Power cost for preceding year
M = Maintenance and operating cost for preceding year
Allocated to pipeline
OH = Water utility overhead rate
DS = Future debt service
TD = Transmission Depreciation
QE = Quantity of water conveyed from Everett for
Preceding year in 100 cf

2. "Wheeling Charge" to JOA participants for water furnished through the Marysville distribution system

from any source. Storage needs provided by each purveyor.

$$W = \frac{(MV)(1.0 + OH)}{QM} + C$$

~~W = Wheeling Charge (per 1,000 gallons)~~
~~MV = Marysville system costs (per 1,000 gallons)~~
~~OH = Water utility overhead rate~~
~~QM = Quantity of water metered into the system exclusively for Marysville and the Tribes from all sources, including water metered at JOA pipeline (per 1,000 gallons)~~
~~C = Customer costs associated with meter maintenance, operation and replacement, meter reading, billing expense, and reports and collection~~

$$W = \$6,300 + (OM \times QM) + C$$

W = Wheeling Charge (Monthly)
OM = 150%(R-E), wheeling operation and maintenance cost (per 100 cf) for the City of Marysville water distribution system, see "JOA Water Rates" for R, and E
QM = Quantity of water metered into the Tribes system from the City of Marysville during the billing period (per 100 cf)
C = Customer costs associated with meter maintenance, operation, and replacement, meter reading, billing expense, and reports and collection

3. Total cost to TRIBES will be "Wheeling Charge" and "JOA Water Rates."

4. Rate Component Descriptions.

Everett Cost = E

The Everett Water Cost shall be the then current water charges paid by the CITY as determined by the "Everett and JOA Participants - Water Supply Contract" and any additional charges as agreed to in the future between the City of Everett and the CITY of Marysville or as determined by law. The rate shall continue to be computed to the nearest ten thousandth of a dollar.

Power Cost = P

Power cost shall include all electrical and heating charges at the CITY's existing water supply facilities, such as, standby wells, reservoirs, and the meter pits for the preceding year and such other wholesale facilities as may be constructed by the CITY.

Maintenance and Operations Cost = M

Maintenance and Operation Costs shall include all repairs of pumps, motors, and heaters at the standby wells serving the wholesale customers, telemetering repairs or additions, all labor costs for above and daily maintenance and operation of standby wells, transmission and distribution system maintenance, telemetering, "Master Meter" readings, and other maintenance and operation costs attributable to either "JOA Water Rate" or "Wheeling Charge" and the equipment necessary to perform said work.

JOA Transmission Depreciation = TD

Is defined as the total cost including but not limited to material, labor, engineering, sales tax, legal, administration, etc. of various segments of the JOA transmission line divided by the useful life. For this purpose, the depreciation rate for cost or ductile iron pipe shall be 100 years and for concrete cylinder, PVC, 3/16-inch shell or heavier steel pipe shall be 50 years. City records showing the original or estimated cost to be depreciated will be made available to the Tribes for verification is and when desired by the Tribes.

Depreciation shall continue until the useful life of the facility, defined above, is reached. At such time it is assumed a replacement facility will be constructed. The cost of the replacement facility will be borne by the City of Marysville. At the time the facility is replaced, the depreciation cost to the Tribes will be revised to reflect the replacement costs.

Marysville System Costs = MV

~~The following is a breakdown of system costs by expense item for JOA participants using the Marysville distribution system:~~

~~i) Supply Supply meters other than JOA pipeline~~

~~ii) Pumping and Treatment Costs~~

- ~~• Operation of equipment~~
- ~~• Power~~
- ~~• Supplies~~
- ~~• Maintenance of structures~~
- ~~• Maintenance of equipment~~

~~iii)~~

- ~~• Outside engineering~~
- ~~• Trans. And discr. line expense~~
- ~~• Supplies, excluding meters~~
- ~~• Other operating expenses~~
- ~~• Maintenance of structures and improvements~~
- ~~• Maintenance of mains~~
- ~~• Maintenance of miscellaneous plant, excluding storages, meters, and hydrants~~

~~iv) Wheeling Charge Depreciation~~

~~Depreciation will include distribution pipelines associated with wheeling water from the JOA pipeline to the points of connection with the Tulalip Tribes. For this purpose, the depreciation rate for cast or ductile iron pipe shall be 100 years and for concrete cylinder, 3/16 inch shell or heavier steel pipe shall be 50 years. City records showing the original or estimated cost to be depreciated will be made available to the Tribes for verification if and when desired by the Tribes.~~

~~Depreciation shall continue until the useful life of the facilities, defined above, is reached. At such time it is assumed that replacement facility(ies) will be constructed. The cost of~~

~~the replacement facility(ies) will be borne by the City of Marysville. At the time portions of the distribution system are replaced, the depreciation cost to the Tribes will be revised to reflect the replacement costs.~~

Water Utility Overhead Rate = OH

The formula for determining the overhead rate is attached as Exhibit B and includes the following components.

- General and specific overhead direct and indirect associated with water service excluding meter reading and billing cost
- Professional services
- Insurance
- Taxes and assessments: It is understood that the Tribes are not subject to the same taxes as the City. At the Tribes' option and expense they may seek to have its portion of such taxes exempted from payment to the City, in which case the credit would be passed onto the Tribes. Written proof of such exemption shall be provided to the City reflecting such tax exemption, if any.
- Transmission and distribution supervision

Future Debt Service = DS

Future debt service shall include bonded debt service required for any future pumping, or distribution lines as may be required. Cost will be included in the appropriate formula added to this agreement at the second billing period to the TRIBES after sale of bonds issued for construction of the above future facilities. In the event the CITY elects to finance any future facilities out of CITY general construction funds, then such total costs will be added to this agreement by the second billing period of the following year and paid for under maintenance and operation costs.

The CITY bond covenants require a bond coverage of 1.25 times the Debt Service which is incorporated in the rate formula. The CITY policy is to use any

coverage money not required for the bond reserve fund, refunding of bonds, or the retirements of bonds for JOA pipeline improvements to the extent possible.

It is understood that debt service is an alternative to depreciation in the formula. With both parties' concurrence, a facility(ies) can be exempt from depreciation charge if future replacement or repair is anticipated to be finance through issuing bonds. Whereby the annual cost for facility replacement would be included as debt service. Specific facilities that were exempt from depreciation would be attached as an addendum to this agreement.

5. Initial Water Rates:

The initial water rate to the TRIBES shall be 0.5539 cents per 100 cubic feet for "JOA Water Rate," 0.24 cents per 1,000 gallons for "Wheeling Charge," and a flat rate of \$250 per month for customer fixed costs associated with meter maintenance, operation, replacement, reading, billing expense, reports, and collection. Such rates will be effective the following month after date of execution of this agreement and actual connection to the City's distribution system; and billing to the TRIBES for water consumed after this date shall be computed at this rate through December 31, 1996.