

**Marysville City Council Meeting****October 9, 2017****7:00 p.m.****City Hall****Call to Order****Invocation****Pledge of Allegiance****Roll Call****Approval of the Agenda****Committee Reports****Presentations**

A. Mayor's Employee Excellence Award

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

1. Approval of the September 11, 2017 City Council Meeting Minutes.

17. Approval of the September 25, 2017 City Council Meeting Minutes. \*

**Consent**

2. Approval of the September 27, 2017 Claims in the Amount of \$2,137,959.82 paid by EFT transactions and Check Numbers 119644 through 119782 with no Check Numbers Voided.

4. Consider Approving the Purchase of the 24' x 40' Modular Office Building for the Water Resource Division.

5. Consider Approving the Purchase of a Replacement Dump Truck, Replacement Step Van, and an Additional Crew Cab as Identified in the 2017/2018 Fleet Budget.

6. Consider Approving the 2016 Pavement Preservation Program with Cemex Construction Materials Pacific LLC, Starting the 45-day Lien Filing Period for Project Closeout.

7. Consider Approving the Purchase of Two 20 Hp Fairbanks Morse Vertical Turbine Solids Handling Filter Feed Pumps.

8. Consider Approving the Land Use Restriction and Real Property Covenant for the Qwuloolt Area.

*\*These items have been added or revised from the materials previously distributed in the packets for the October 2, 2017 Work Session.*

## Marysville City Council Meeting

October 9, 2017

7:00 p.m.

City Hall

9. Consider Approving the USDA-APHIS Wildlife Services for the Fiscal Year ending September 30, 2018.

11. Consider Approving the 2018 Yakima County Agreement for Jail Services.

16. Consider Approving an Interlocal Agreement with Snohomish Health District for the Purpose of Providing for a Per Capita Contribution by the City for Health District Services.

18. Consider Approving the October 5, 2017 Payroll in the Amount of \$1,816,216.95; Paid by EFT Transactions and Check Numbers 31139 through 31166. \*

### Review Bids

3. Consider Awarding the Bid for the 2017 Emergency Generator Project to Valley Electric in the Amount of \$326,914.88 including Washington State Sales Tax and Approve a Management Reserve of \$32,691.49 for a Total Allocation of \$359,606.37. \*

### Public Hearings

### New Business

12. Consider Approving an **Ordinance** Granting Astound Broadband, LLC dba Wave a Nonexclusive Telecommunications Franchise Agreement.

13. Consider Approving an **Ordinance** Granting MCIMetro Access dba Verizon Access a Nonexclusive Telecommunications Franchise Agreement.

14. Consider Approving an **Ordinance** Dedicating Right-of-Way for Public Use on State Avenue in the area of 116<sup>th</sup>.

15. Consider Approving a **Resolution** Establishing a Stay out of Drug Area (SODA) in the Smokey Point area.

### Legal

### Mayor's Business

### Staff Business

### Call on Councilmembers

### Adjournment/Recess

### Executive Session

*\*These items have been added or revised from the materials previously distributed in the packets for the October 2, 2017 Work Session.*

**Marysville City Council Meeting****October 9, 2017****7:00 p.m.****City Hall**

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

**Reconvene****Adjournment**

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

*\*These items have been added or revised from the materials previously distributed in the packets for the October 2, 2017 Work Session.*

# *Index #1*

<b>Call to Order/Pledge of Allegiance/Roll Call</b>	7:00 p.m.
<b>Approval of the Agenda</b>	Approved
<b>Committee Reports</b>	
<b>Presentations</b>	
Proclamation: Childhood Cancer Awareness Month	Read
Officer Swearing In: Lateral Police Officer Carrie Foote and Custody Officer De Maramed	Sworn In
Marysville Pride Award: Belmark Homes	Presented
<b>Audience Participation</b>	
<b>Approval of Minutes</b>	
Consider Approval of the July 10, 2017 City Council Meeting Minutes	Approved
Consider Approval of the July 24, 2017 City Council Meeting Minutes	Approved
<b>Consent Agenda</b>	
Consider Approval of the August 18, 2017 Payroll in the Amount \$1,008,137.81; Paid by EFT Transactions and Check Numbers 31030 through 31067 with Check Number 31028 and 31029 Voided	Approved
Consider Approval of the Termination of Reserved Utility Easement and the Termination of Drainage Easement, recorded under AFN 200209130616	Approved
Consider Acceptance of the Grove Street Improvements Project with SRV Construction, Inc., Starting the 45-Day Lien Period for Project Closeout	Approved
Consider Approval of the PUD Strategic Energy Management Funding Agreement for Wastewater Energy Coaching with Snohomish County PUD	Approved
Consider Approval of the August 30, 2017 Claims in the Amount of \$1,068,192.44; Paid by Check Numbers 119111 through 119266 with Check Numbers 118027 and 118900 Voided	Approved
<b>Review Bids</b>	
<b>Public Hearings</b>	
Consider Approval of the Program Year 2016 Consolidated Annual Performance and Evaluation Report and Direct Staff to Provide a Summary of, and Response to any Comments Received During the Public Hearing into the Report, and Forward to the U.S. Department of Housing and Urban Development	Held/Approved
<b>New Business</b>	
Consider Approval of an Ordinance Approving, with Conditions, Transfer of Ultimate Control of a Franchisee from Wave Holdco, LLC to Radiate Holdco, LLC (Action will be Requested at the September 25, 2017 City Council Meeting)	No Action Taken
Consider Approval of the Emergency <b>Resolution</b> Waiving Compliance with the City's Normal Bidding and Procurement Process for Addressing the City's Wastewater Treatment Plant Operations.	Approved Res. No. 2421
Consider Approval of an <b>Ordinance</b> Amending Chapter 5.02 of the Marysville Municipal Code (MMC) Governing Business Licenses and	Approved Ord. No. 3064

Adding a Section Providing for Summary Suspension of Business Licenses	
Consider Approval of an <b>Ordinance</b> Amending Marysville Municipal Code (MMC) Chapter 14.07 to Provide Reimbursement for Certain Capital Improvement Projects or a Credit against Capital Improvement Charges	Approved Ord. No. 3065
<b>Legal</b>	
<b>Mayor's Business</b>	
Consider Approval of the Appointment to Civil Service: Brad Thompson	Approved
Consider Approval of the Appointment to Salary Commission: Brad Thompson	Approved
Consider Approval of the Reappointment to Planning Commission: Tom Thetford	Approved
<b>Staff Business</b>	
<b>Call on Councilmembers</b>	
<b>Adjournment</b>	8:12 p.m.
<b>Executive Session</b>	8:20 p.m.
<b>Real Estate – two items</b>	Action on one
<b>Personnel – one item</b>	No Action
<b>Reconvened into regular session</b>	
<b>Adjournment</b>	8:55 p.m.

COUNCIL*DRAFT*  
MINUTES

**Regular Meeting**  
September 11, 2017

**Call to Order / Pledge of Allegiance**

Mayor Nehring called the meeting to order at 7:00 p.m. and led those present in the Pledge of Allegiance. Pastor Greg Kanehan gave the invocation.

**Roll Call**

Chief Administrative Officer Hirashima gave the roll call. The following staff and councilmembers were in attendance.

**Mayor:** Jon Nehring

**Council:** Steve Muller, Kamille Norton, Jeff Seibert, Michael Stevens, Rob Toyer, Jeff Vaughan, and Donna Wright

**Absent:** None

**Also Present:** Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Rick Smith, City Attorney Jon Walker, Public Works Director Kevin Nielsen, Community Development Director Dave Koenig, Fire Chief Martin McFalls, Information Officer Connie Mennie, and Recording Secretary Laurie Hugdahl.

**Approval of the Agenda**

**Motion** made by Councilmember Toyer, seconded by Councilmember Norton, to approve the agenda. **Motion** passed unanimously (7-0).

**Committee Reports**

None

**Audience Participation**

Jessica Beckstrand, 6427 38<sup>th</sup> Place NE, Marysville, introduced two young cancer survivors, one of which was her own daughter. She expressed appreciation for the many people and organizations that supported them in various ways throughout their cancer diagnosis and treatments.

Preston Dvoskin, 11120 46<sup>th</sup> Avenue NE, Marysville, WA 98271, expressed concern about the bump being taken out at 116<sup>th</sup> near the school resulting in more people speeding. He requested more patrols in the city. He stated the need to put more first responders in the community as the budget allows.

Alex Villalobos, 4922 104<sup>th</sup> Place NE, Marysville, WA, 98270, expressed concern about bricks being thrown through windows at schools and churches, including his own church. He asked what the City Council is doing about that. Chief Smith explained that police look at all crime that happens and then they put resources toward finding out who is doing the crime. He thanked Alex for bringing this up.

Guinevere Cannon, 4618 58<sup>th</sup> Drive NE, Marysville, WA, expressed concern about the number of abandoned vehicles or parked vehicles in her neighborhood. She also expressed concern about natural growth areas that were turned back over to the Tribes.

Mayor Nehring explained that the code enforcement team is focusing on abandoned vehicles throughout the city. He agreed that this is still an issue, but it is still being addressed as they are working their way through the city. They are also addressing other code enforcement issues in the city.

Chief Smith agreed that police have been actively working on the abandoned vehicle issue. He gave an update on their efforts which have been very successful. He asked Ms. Cannon to meet with Assistant Chief Goldman to follow up.

## **Presentations**

- A. Proclamation: Childhood Cancer Awareness Month

Mayor Nehring read the proclamation into the record.

- B. Officer Swearing In: Lateral Police Officer Carrie Foote and Custody Officer De Maramed

Chief Smith introduced the officers, and Mayor Nehring administered the Oath of Office to them both.

- C. Marysville Pride Award: Belmark Homes

Mayor Nehring presented the *Pride of Marysville: Best Business of 2017 Award* to Aaron Metcalf of Belmark Properties for the renovation project he did with a property on State Street.



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

1. Consider Approval of the July 10, 2017 City Council Meeting Minutes

Councilmember Norton stated she would be abstaining from the vote as she did not attend the meeting.

**Motion** made by Councilmember Stevens, seconded by Councilmember Wright, to approve the July 10, 2017 City Council Meeting Minutes. **Motion** passed unanimously (6-0) with Councilmember Norton abstaining.

2. Consider Approval of the July 24, 2017 City Council Meeting Minutes

**Motion** made by Councilmember Wright, seconded by Councilmember Vaughan, to approve the July 24, 2017 City Council Meeting Minutes. **Motion** passed unanimously (7-0).

**Consent**

9. Consider Approval of the August 18, 2017 Payroll in the Amount \$1,008,137.81; Paid by EFT Transactions and Check Numbers 31030 through 31067 with Check Number 31028 and 31029 Voided
11. Consider Approval of the Termination of Reserved Utility Easement and the Termination of Drainage Easement, recorded under AFN 200209130616
13. Consider Acceptance of the Grove Street Improvements Project with SRV Construction, Inc., Starting the 45-Day Lien Period for Project Closeout
14. Consider Approval of the PUD Strategic Energy Management Funding Agreement for Wastewater Energy Coaching with Snohomish County PUD
21. Consider Approval of the August 30, 2017 Claims in the Amount of \$1,068,192.44; Paid by Check Numbers 119111 through 119266 with Check Numbers 118027 and 118900 Voided

**Motion** made by Councilmember Toyer, seconded by Councilmember Muller, to approve Consent Agenda items 9, 11, 13, 14, and 21. **Motion** passed unanimously (7-0).

**Review Bids****Public Hearings**

12. Consider Approval of the Program Year 2016 Consolidated Annual Performance and Evaluation Report and Direct Staff to Provide a Summary of, and Response

*DRAFT*

to any Comments Received During the Public Hearing into the Report, and Forward to the U.S. Department of Housing and Urban Development

Dave Koenig explained that this is the annual report to the HUD on what was accomplished during the last program year (July 1-June 30) and the \$366,717 in funding that was spent. This hearing is part of the Citizen Participation Plan to allow citizens the opportunity to comment on what is in the CAPER before it is submitted to HUD.

Mayor Nehring opened the public hearing at 7:38 p.m. and solicited public comments. Seeing none, the hearing was closed at 7:39 p.m.

**Motion** made by Councilmember Muller, seconded by Councilmember Toyer, to approve the Program Year 2016 Consolidated Annual Performance and Evaluation Report and Direct Staff to Provide a Summary of, and Response to any Comments Received During the Public Hearing into the Report, and Forward to the U.S. Department of Housing and Urban Development. **Motion** passed unanimously (7-0).

### **New Business**

10. Consider Approval of an Ordinance Approving, with Conditions, Transfer of Ultimate Control of a Franchisee from Wave Holdco, LLC to Radiate Holdco, LLC (Action will be Requested at the September 25, 2017 City Council Meeting)

City Attorney Walker explained that this addresses the change in ownership from Wave to Radiate Holdco. Action will be taken at the next regular business meeting.

15. Consider Approval of the Emergency **Resolution** Waiving Compliance with the City's Normal Bidding and Procurement Process for Addressing the City's Wastewater Treatment Plant Operations.

Director Nielsen explained that this was necessary to keep the wastewater treatment plants running and in compliance.

Councilmember Muller asked about the timeline for looking into other items that may be a concern. Director Nielsen noted that staff would be coming back within a couple months.

**Motion** made by Councilmember Norton, seconded by Councilmember Toyer, to approve Resolution No. 2421. **Motion** passed unanimously (7-0).

16. Consider Approval of an **Ordinance** Amending Chapter 5.02 of the Marysville Municipal Code (MMC) Governing Business Licenses and Adding a Section Providing for Summary Suspension of Business Licenses

City Attorney Walker explained that this updates the enforcement mechanism for suspending and revoking business licenses. It adds some reasons for denying, revoking

or suspending a license. It also provides for a summary suspension of business licenses in very specific situations.

Councilmember Toyer asked how often business licenses get suspended or revoked. City Attorney Walker replied it was very rare and hopefully the summary suspension will never be used.

**Motion** made by Councilmember Norton, seconded by Councilmember Muller, to approve Ordinance No. 3064. **Motion** passed unanimously (7-0).

17. Consider Approval of an **Ordinance** Amending Marysville Municipal Code (MMC) Chapter 14.07 to Provide Reimbursement for Certain Capital Improvement Projects or a Credit against Capital Improvement Charges

Director Nielsen explained that this would provide for a credit against capital improvement charges for building certain improvements. This is a good public-private partnership.

**Motion** made by Councilmember Muller, seconded by Councilmember Stevens, to approve Ordinance No. 3065. **Motion** passed unanimously (7-0).

## Legal

### Mayor's Business

18. Consider Approval of the Appointment to Civil Service: Brad Thompson

**Motion** made by Councilmember Wright, seconded by Councilmember Stevens, to approve the appointment of Brad Thompson to the Civil Service Commission. **Motion** passed unanimously (7-0).

19. Consider Approval of the Appointment to Salary Commission: Brad Thompson

**Motion** made by Councilmember Norton, seconded by Councilmember Toyer, to approve the appointment of Brad Thompson to the Salary Commission. **Motion** passed unanimously (7-0).

20. Consider Approval of the Reappointment to Planning Commission: Tom Thetford

**Motion** made by Councilmember Muller, seconded by Councilmember Stevens, to approve the reappointment of Tom Thetford to the Planning Commission. **Motion** passed unanimously (7-0).

### Other Mayor's Business:

- He thanked Chief McFalls for organizing the 9/11 ceremony today. He also thanked Chief Smith and his personnel for supporting that event.

- Thanks to Parks, Police, Public Works, and Fire for all they did to put on Touch a Truck. He also thanked local service clubs such as Noon Rotary and Kiwanis
- There will be a Chamber small business event this week at the Opera House.

### **Staff Business**

Chief Smith:

- Thanks to Chief McFalls and his crews for putting on the 9/11 Ceremony.
- He thanked Northwest Baptist Church for sending over some lunch today to first responders.
- He noted that police were very busy this morning which took a lot of time and resources to address. He thanked Preston Dvoskin, Alex Villalobos, and all citizens for their input.

Sandy Langdon had no comments.

Jon Walker stated the need for an Executive Session to discuss two items to consider the acquisition of real estate with action expected and one item to discuss collective bargaining agreements. Executive Session was expected to last ten minutes.

Dave Koenig:

- Planning Commission will be meeting tomorrow night to discuss residential density incentives and wetland buffers.
- He spoke with someone from United Electrical about concerns with Marysville requirements. Their concern is that Marysville requires plans be submitted for smaller electrical permits. The state does not require plans for smaller permits.

Chief McFalls thanked everyone in the community for their support and to the men and women in Police and Fire who are out on the front lines every day.

Jim Ballew:

- Touch a Truck was a great success despite the weather. He expressed appreciation to everyone involved in putting on the event, especially Andrea Kingsford.
- He gave an update on the Ebey Waterfront Trail project under the 529 bridge. This will be a great feature once it's done.
- The Chamber small business summit will be going on at the Opera House along with a dozen other events this month.
- There will be a Park Board Meeting on Wednesday night.
- Diversity Committee will be meeting on Monday.

Kevin Nielsen:

- He expressed appreciation for the firefighters fighting the wildfires.
- Public Works is busy doing annual programs.
- He commended Belmark for the transformation of the building.

- Mayor Nehring passed along appreciation from a citizen to the Public Works crews for cleaning up graffiti underneath I-5 and 528 even though that is a state issue.

Gloria Hirashima:

- She thanked Police and Fire for the 9/11 ceremony today and for the work they do every day.
- She enjoyed Touch a Truck.
- The RFA Committee is looking for a new date for the next meeting.
- The RFA packets will be going out to all councilmembers each month.
- The City is in the process of trying to fill the HR Director position.
- There have been some wonderful hires coming in to other positions.

### **Call on Councilmembers**

Jeff Vaughan thanked Alex for coming to the microphone to talk as a Boy Scout and commended him for his poise.

Donna Wright:

- She thanked Police and Fire for the 9/11 Ceremony. She commended first responders for all they do.
- She has noticed that the barbecues at Comeford Park are being well used.

Jeff Seibert:

- He stated he has not gotten anything regarding the RFA in his email.
- He expressed appreciation for the 9/11 remembrance. He referred to disasters in Texas and Florida and spoke to importance of emergency management plans.

Michael Stevens thanked Mayor Nehring for the proclamation regarding Childhood Cancer.

Rob Toyer welcomed new officers.

Steve Muller:

- He also welcomed new officers.
- He spoke to the importance of remembering 9/11.
- He missed Touch a Truck this year.
- Thanks to the first responders for keeping everyone safe.

Kamille Norton:

- It was heartwarming to see the families here tonight and hear how much the community has supported them in their fight against cancer.
- She thanked Police and Fire for the work they do and for the ceremony this morning.

### **Adjournment/Recess**

Council recessed from 8:12 to 8:17 p.m. before reconvening in Executive Session.

### **Reconvenement**

### **Executive Session**

Council reconvened in Executive Session to discuss two items related to the acquisition of real estate with action expected and one item related to collective bargaining agreements. Executive Session was expected to last ten minutes.

- A. Litigation
- B. Personnel – two items
- C. Real Estate – two items

Executive session extended 25 minutes.

Executive session ended and public meeting reconvened at 8:55 p.m.

**Motion** made by Councilmember Muller, seconded by Councilmember Wright, to authorize the Mayor to sign purchase and sale contract to acquire 1624 1<sup>st</sup> Street in Marysville. **Motion** passed unanimously (7-0).

### **Adjournment**

The meeting was adjourned at 8:55 p.m.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor  
Jon Nehring

\_\_\_\_\_  
Recording Secretary  
Laurie Hugdahl

*Update*  
*Index #17*

<b>Call to Order/Pledge of Allegiance/Roll Call</b>	7:00 p.m.
<b>Approval of the Agenda</b>	Approved
<b>Committee Reports</b>	
<b>Presentations</b>	
<b>Employee Service Awards :</b>	Presented
<ul style="list-style-type: none"> <li>• Gregory Cornett, Police Officer, 5 years</li> <li>• Patrick Connelly, Police Office, 5 years</li> <li>• Pete Shove, Police Sergeant, 10 years</li> <li>• John Dorcas, Building Official, 25 years</li> </ul>	
Snohomish Health District: Jeff Ketchel, Interim Administrator	Presented
<b>Audience Participation</b>	
<b>Approval of Minutes</b>	
Consider Approval of the September 5, 2017 City Council Meeting Minutes	Approved
<b>Consent Agenda</b>	
Approval of the September 5, 2017 payroll in the amount of \$1,789,007.23, EFT Transactions and Check Numbers 31068 through 31104.	Approved
Approval of the September 20, 2017 payroll in the amount of \$1,213,593.71, EFT Transactions and Check Numbers 31105 through 31138.	Approved
Approval of the September 6, 2017 claims in the amount of \$1,488,353.04 paid by EFT transactions and Check Numbers 119267 through 119369 with Check Numbers 118967 and 119049 voided.	Approved
Approval of the September 13, 2017 claims in the amount of \$255,696.73 paid by EFT transaction and Check Numbers 119370 through 119483 with no Check Numbers voided.	Approved
Approval of the September 20, 2017 claims in the amount of \$925,179.92 paid by EFT transactions and Check Numbers 119484 through 119643 with Check Number 118704 voided.	Approved
<b>Review Bids</b>	
<b>Public Hearings</b>	
<b>New Business</b>	
Consider Approval of an Ordinance Granting Astound Broadband, LLC dba Wave a Nonexclusive Telecommunications Franchise Agreement. (Action will be requested at the October 9, 2017 City Council Meeting)	Continued
Consider Approval of an Ordinance Granting MCIMetro Access dba Verizon Access a Nonexclusive Telecommunication Franchise Agreement. (Action will be requested at the October 9, 2017 City Council Meeting)	Continued
Consider Approval of an Ordinance Approving, with Conditions, Transfer of Ultimate Control of a Franchisee from Wave Holdco, LLC to Radiate Holdco, LLC.	Approved Ord. No. 3066
Consider Approval of the Amended Inter-local between the Snohomish Regional Drug and Gang Task Force and the City of Marysville Police	Approved



Department.	
Consider Approval of a Resolution Accepting Geddes Marina Boathouse S1, Tax Parcel 00970300400100 Donation from Dan Bartlett.	Approved Res. No. 2422
Consider Approval of Sunnyside Well Treatment Facility Project – Supplemental Agreement No.1 with RH2 Engineering, Inc. for Engineering Support during Construction.	Approved
<b>Legal</b>	
<b>Mayor’s Business</b>	
Consider Approval of the Appointments to the Hotel/Motel Committee: Jennifer Caveny, Jesica Stickles, Mary Kirkland, Charles Lee	Approved
<b>Staff Business</b>	
<b>Call on Councilmembers</b>	
<b>Adjournment</b>	8:29 p.m.

COUNCIL*DRAFT*  
MINUTES

**Regular Meeting**  
September 25, 2017

**Call to Order / Pledge of Allegiance**

Mayor Nehring called the meeting to order at 7:00 p.m. and led those present in the Pledge of Allegiance. Pastor Jeff Hastings gave the invocation.

**Roll Call**

Chief Administrative Officer Hirashima gave the roll call. The following staff and councilmembers were in attendance.

**Mayor:** Jon Nehring

**Council:** Steve Muller, Kamille Norton, Jeff Seibert, Michael Stevens, Rob Toyer, Jeff Vaughan, and Donna Wright

**Absent:** None

**Also Present:** Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Rick Smith, City Attorney Jon Walker, Public Works Director Kevin Nielsen, Community Development Director Dave Koenig, Fire Chief Martin McFalls, Chief Smith, and Recording Secretary Laurie Hugdahl.

**Motion** made by Councilmember Toyer, seconded by Councilmember Muller, to approve the agenda. **Motion** passed unanimously (7-0).

**Committee Reports**

Councilmember Norton reported on the Parks Advisory Board Meeting on September 13 where there was a presentation by the Arlington Tree Heritage Program who invited the Board to consider participating in that program. Additionally, the Board approved a memorial request. They also approved some slight fee adjustments including increases in some rentals and a discount for non-profit groups wanting to rent the Opera house at certain times. Finally, there was some discussion about a naming policy for city parks.

***DRAFT***

Councilmember Seibert reported on the September 13 Snohomish County Solid Waste Advisory Committee where the Health District made a presentation on their responsibility in working with non-permitted or exempt disposers and recyclers. There was an update on Solid Waste projects. Republic will be recommended for the contract for the transfer from Snohomish County to disposal in eastern Washington. They are working on closing out the Sisco landfill that had contaminants in it.

Councilmember Seibert then reported on the September 20 Finance Committee meeting where the following items were discussed:

- Records Request Summary – The City has received 102 requests that have used up 135 staff hours.
- Budget Update – Sales tax revenue is up 4.7%. This does not include construction sales tax.
- The Waterfront Trail will be in construction in 2018 and 2019.

## **Presentations**

### A. Employee Service Awards

The following employees were presented with service awards:

- Gregory Cornett, Police Officer, 5 years
- Patrick Connelly, Police Office, 5 years
- Pete Shove, Police Sergeant, 10 years
- John Dorcas, Building Official, 25 years

### B. Snohomish Health District: Jeff Ketchel, Interim Administrator

Mr. Ketchell introduced Mark Beatty, the new Snohomish County Health Officer, and then made a PowerPoint presentation regarding a healthy future for the City of Marysville and Snohomish Health District. He thanked the City for the approval of the Rucker Building and discussed:

- Leadership changes with the Snohomish Health District;
- Opioid epidemic response including needle pick up kits, a health forum and website, and prevention methods such as working with doctors regarding prescriptions;
- Merger with Snohomish County exploration – After analysis the Health District chose not to proceed with a merger with Snohomish County;
- Modernization – response to Ruckelshaus Center Assessment, Innovation, pursuit of Public Health Accreditation (PHAB), and the Health District's role as Chief Health Strategist for the community; and
- Funding Sustainability – improved fiscal monitoring system for grants and contracts, large fund balance because of uncertain public funding, new permit and fee schedule, Public Health is Essential and Foundational Public Health Services, and working on providing a value in partnership. He requested that the City continue to fund the Health District in 2018.

*DRAFT*

Councilmember Toyer asked if there are ongoing studies showing the overdose data. Dr. Beatty explained there are other systems that the District can tap into to obtain more data. Another potential source of data is with OD Map from police and EMS providers.

Councilmember Muller commented that he has seen a lot of advancement and positive interaction with the Health District over the past couple years as a result of Mr. Ketchel's work.

### **Audience Participation**

Joshua S. Cornult, 10305 State Avenue, spoke in support of allowing I-502 marijuana sales in Marysville. Their reason for purchasing the property is that there was a recreational marijuana license that had been landed at that address by the state. He commented on the large potential tax benefit to the City. He read a letter from the Mayor of Des Moines, where they currently operate a large operation, commending the operation of their facility. He asserted that where marijuana shops are crime decreases. He asked about the City's moratorium on marijuana and asked where the Tribes fit into this.

Seth Simpson, 10305 State Avenue, spoke in support of allowing I-502 marijuana sales in Marysville. He stated that he started out with one of the oldest medical marijuana stores in the state located in Seattle. He stressed that they want to help create a better atmosphere in the community and help increase business. He asked when Marysville might allow this and how they can go about furthering the discussion.

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

1. Consider Approval of the September 5, 2017 City Council Meeting Minutes

Councilmembers Vaughan and Toyer indicated that they would be abstaining from the vote.

**Motion** made by Councilmember Norton, seconded by Councilmember Muller, to approve the September 5, 2017 City Council Meeting Minutes. **Motion** passed (5-0) with Councilmembers Vaughan and Toyer abstaining.

### **Consent**

2. Approval of the September 5, 2017 payroll in the amount of \$1,789,007.23, EFT Transactions and Check Numbers 31068 through 31104.
3. Approval of the September 20, 2017 payroll in the amount of \$1,213,593.71, EFT Transactions and Check Numbers 31105 through 31138.
4. Approval of the September 6, 2017 claims in the amount of \$1,488,353.04 paid by EFT transactions and Check Numbers 119267 through 119369 with Check Numbers 118967 and 119049 voided.

5. Approval of the September 13, 2017 claims in the amount of \$255,696.73 paid by EFT transaction and Check Numbers 119370 through 119483 with no Check Numbers voided.
6. Approval of the September 20, 2017 claims in the amount of \$925,179.92 paid by EFT transactions and Check Numbers 119484 through 119643 with Check Number 118704 voided.

**Motion** made by Councilmember Toyer, seconded by Councilmember Wright, to adopt Consent Agenda items 2, 3, 4, 5, and 6. **Motion** passed unanimously (7-0).

### **Review Bids**

### **Public Hearings**

### **New Business**

7. Consider Approval of an Ordinance Granting Astound Broadband, LLC dba Wave a Nonexclusive Telecommunications Franchise Agreement. (Action will be requested at the October 9, 2017 City Council Meeting)

City Attorney Walker explained that this item and the next pertain to franchise agreements for wiring between poles throughout the city using the right-of-way. They are new agreements and subject to permitting requirements as they are set up. Action will not be taken until the October 9 meeting.

8. Consider Approval of an Ordinance Granting MCIMetro Access dba Verizon Access a Nonexclusive Telecommunication Franchise Agreement. (Action will be requested at the October 9, 2017 City Council Meeting)

See item 7 above.

9. Consider Approval of an Ordinance Approving, with Conditions, Transfer of Ultimate Control of a Franchisee from Wave Holdco, LLC to Radiate Holdco, LLC.

City Attorney Walker reminded the Council that this is required because Wave got acquired.

**Motion** made by Councilmember Muller, seconded by Councilmember Toyer, to adopt Ordinance No. 3066. **Motion** passed unanimously (7-0).

10. Consider Approval of the Amended Inter-local between the Snohomish Regional Drug and Gang Task Force and the City of Marysville Police Department.

Chief Smith explained that this relates to combining the North County and the South County task forces. It also deals with a change in the budget cycle.

**Motion** made by Councilmember Wright, seconded by Councilmember Seibert, to approve the Amended Inter-local between the Snohomish Regional Drug and Gang Task Force and the City of Marysville Police Department. **Motion** passed unanimously (7-0).

11. Consider Approval of a Resolution Accepting Geddes Marina Boathouse S1, Tax Parcel 00970300400100 Donation from Dan Bartlett.

City Attorney Walker explained that this is the last boathouse in the slough. Councilmember Toyer asked what the City does with the boathouses. Director Ballew explained that the City is currently maintaining the boathouses for future permitting.

**Motion** made by Councilmember Norton, seconded by Councilmember Stevens, to approve Resolution No. 2422. **Motion** passed unanimously (7-0).

12. Consider Approval of Sunnyside Well Treatment Facility Project – Supplemental Agreement No.1 with RH2 Engineering, Inc. for Engineering Support during Construction.

Director Nielsen explained that this is a no-cost time extension for engineering services.

**Motion** made by Councilmember Seibert, seconded by Councilmember Wright, to approve the Sunnyside Well Treatment Facility Project – Supplemental Agreement No.1 with RH2 Engineering, Inc. for Engineering Support during Construction. **Motion** passed unanimously (7-0).

## Legal

### Mayor's Business

13. Consider Approval of the Appointments to the Hotel/Motel Committee: Jennifer Caveny, Jesica Stickles, Mary Kirkland, Charles Lee

**Motion** made by Councilmember Muller, seconded by Councilmember Stevens, to approve the Mayor's appointments to the Hotel/Motel Committee: Jennifer Caveny, Jesica Stickles, Mary Kirkland, Charles Lee. **Motion** passed unanimously (7-0).

### Other Business from the Mayor:

- Thanks to Chief McFalls for a nice fire awards event last Wednesday.
- This Wednesday Snohomish County Tomorrow and Snohomish County General Assembly will have a combined meeting.
- Marysville is looking at working with the County to put in a submission to be selected along with two other Snohomish County cities as an Amazon site.

- Thanks to the Cub Scout in the audience.

### **Staff Business**

Chief Smith:

- He made some clarifications about opioid data that was distributed by the Health District. This was from a national survey that went out which Snohomish County participated in. The Fire Department participated as well as the Police Department. He noted that the Marysville data wasn't necessarily in the city, but could have just had a Marysville address.
- He spoke in support of Marysville's original response to the marijuana issue and praised the Council for their courage in this matter. He disagreed with the assertions from tonight's speakers about there being a reduction in crime as a result of marijuana businesses. He stated that there isn't a study out there that shows this. DUI's in Washington State have increased as a result of marijuana. Finally, the legalization of marijuana is still a federal issue. He commented that nobody can prove that this is not a gateway drug. He applauded the Council for stepping up to the plate to keep marijuana out of Marysville.

Sandy Langdon had no further comments.

Jon Walker had no further comments.

Dave Koenig:

- He commented that the state issues marijuana licenses even if the city does not allow them. This creates tension in cities that do not allow them.
- He noted that John Dorcas has been working hard on getting the Village Restaurant cleaned up.

Chief McFalls thanked the Fire Board Members and other city leadership for supporting the awards ceremony.

Jim Ballew:

- Cedarcrest Golf Course will be lit up at night this weekend for a Twilight Invitational Cross Country event with 70 schools on one night and a glow ball tournament on the other night.
- He gave an update on a fantasy princess event at the Opera House over the weekend.
- This will be the last weekend for the spray park.
- Parks has been meeting with local service clubs to talk about partnerships in order to possibly put on a 4th of July event.

Kevin Nielsen:

- Staff will be paving 51<sup>st</sup> tomorrow.
- The signal at 528 and 67<sup>th</sup> is waiting for a video camera.
- Public Works Committee meeting will be held on October 6.

- PUD will be increasing its rates on October 1 which is a pass-through increase from Bonneville Power.

Gloria Hirashima:

- She discussed the Waterfront Trail permitting, budget and schedule.
- She announced that they have found an HR Director who will be reporting to work next Monday.
- RFA packets have been sent out so all council members should have received them.
- An Economic Development Committee meeting will follow the Public Works Committee meeting on October 6.

### **Call on Councilmembers**

Jeff Vaughan commented on discussions he has had with a business located next to a marijuana business in another community. He is confident that Council did the right thing on this issue.

Donna Wright had no comments.

Jeff Seibert:

- Thanks to Kevin Nielsen for the quick response to the citizen who had the concern about the light at 67<sup>th</sup> and 528.
- He commented on the value of going through the Amazon process. He recalled how the NASCAR planning brought a lot of interest and economic development to the city.

Michael Stevens said he appreciated the comments from Chief Smith about the marijuana matter.

Rob Toyer echoed appreciation for Chief Smith's support. He requested that the Council be kept up to date on the Amazon process.

Steve Muller thanked Chief Smith for all he does.

Kamille Norton also thanked Chief Smith for his comments. She noted that she was looking forward to attending the cross country event at the golf course.



**Adjournment**

The meeting was adjourned at 8:29 p.m.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor  
Jon Nehring

\_\_\_\_\_  
Laurie Hugdahl  
Recording Secretary

# *Index #2*

**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: October 9, 2017**

AGENDA ITEM: Claims	AGENDA SECTION:	
PREPARED BY: Sandy Langdon, Finance Director	AGENDA NUMBER:	
	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

Please see attached.

**RECOMMENDED ACTION:**

**The Finance and Executive Departments recommend City Council approve the September 27, 2017 claims in the amount of \$2,137,959.82 paid by EFT transactions and Check No. 119644 through 119782 with no Check No. voided.**

**COUNCIL ACTION:**

BLANKET CERTIFICATION

**CLAIMS  
FOR  
PERIOD-9**

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE **CLAIMS** IN THE AMOUNT OF **\$2,137,959.82 PAID BY EFT TRANSACTIONS AND CHECK NO.'S 119644 THROUGH 119782 WITH NO CHECK NO. VOIDED** ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF MARYSVILLE, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND TO CERTIFY SAID CLAIMS.

\_\_\_\_\_  
AUDITING OFFICER

\_\_\_\_\_  
DATE

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
DATE

WE, THE UNDERSIGNED COUNCIL MEMBERS OF MARYSVILLE, WASHINGTON DO HEREBY APPROVE FOR PAYMENT THE ABOVE MENTIONED **CLAIMS** ON THIS **9<sup>th</sup> DAY OF OCTOBER 2017.**

\_\_\_\_\_  
COUNCIL MEMBER

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COUNCIL MEMBER

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COUNCIL MEMBER

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COUNCIL MEMBER

**CITY OF MARYSVILLE  
 INVOICE LIST**

**FOR INVOICES FROM 9/21/2017 TO 9/27/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119644	CHICAGO TITLE INSURA	EARNEST MONEY-1526 1ST STREET	GMA - STREET	2,500.00
119645	CHICAGO TITLE INSURA	CLOSING FUNDS-1526 1ST STREET	GMA - STREET	314,397.73
119646	CHICAGO TITLE INSURA	EARNEST MONEY-1624 1ST STREET	GMA - STREET	2,500.00
119647	FIRST AMERICAN TITLE	CLOSING FUNDS-521 DELTA AVE	NON-DEPARTMENTAL	558,721.36
119648	REVENUE, DEPT OF	SALES AND USE TAXES	CITY CLERK	0.47
	REVENUE, DEPT OF		COMMUNITY DEVELOPMENT-	3.16
	REVENUE, DEPT OF		GOLF COURSE	4.73
	REVENUE, DEPT OF		RECREATION SERVICES	7.98
	REVENUE, DEPT OF		ER&R	13.43
	REVENUE, DEPT OF		POLICE ADMINISTRATION	38.64
	REVENUE, DEPT OF		CITY STREETS	91.32
	REVENUE, DEPT OF		INFORMATION SERVICES	214.95
	REVENUE, DEPT OF		GENERAL FUND	451.94
	REVENUE, DEPT OF		WATER/SEWER OPERATION	520.82
	REVENUE, DEPT OF		GOLF ADMINISTRATION	1,952.04
	REVENUE, DEPT OF		STORM DRAINAGE	6,130.41
	REVENUE, DEPT OF		GOLF COURSE	13,542.08
	REVENUE, DEPT OF		SOLID WASTE OPERATIONS	31,721.31
	REVENUE, DEPT OF		UTIL ADMIN	73,597.07
119649	CHICAGO TITLE INSURA	CLOSING FUNDS-1624 1ST ST	GMA - STREET	315,954.90
119650	ALFIER, CHARLES	RENTAL DEPOSIT REFUND	GENERAL FUND	200.00
119651	ALLEN, CHRISTINA		GENERAL FUND	100.00
119652	AMERICAN PLANNING	APA, CHAPT/WA & AICP MEMBERSH	EXECUTIVE ADMIN	698.00
119653	APS, INC.	POSTAGE SUPPLIES	CITY CLERK	48.55
	APS, INC.		EXECUTIVE ADMIN	48.55
	APS, INC.		FINANCE-GENL	48.55
	APS, INC.		PERSONNEL ADMINISTRATIO	48.55
	APS, INC.		UTILITY BILLING	48.55
	APS, INC.		LEGAL - PROSECUTION	48.55
119654	ARAMARK UNIFORM	UNIFORM SERVICE	SMALL ENGINE SHOP	6.55
	ARAMARK UNIFORM		EQUIPMENT RENTAL	72.22
119655	BANK OF AMERICA	PARKING REIMBURSEMENT	EXECUTIVE ADMIN	3.00
119656	BANK OF AMERICA		POLICE ADMINISTRATION	3.00
119657	BANK OF AMERICA	REGISTRATION REIMBURSEMENT	CITY COUNCIL	15.00
119658	BANK OF AMERICA	TRAVEL REIMBURSEMENT	POLICE ADMINISTRATION	19.00
119659	BANK OF AMERICA	SUPPLY REIMBURSEMENT	DETENTION & CORRECTION	21.81
119660	BANK OF AMERICA	ADVERTISING	COMMUNITY CENTER	11.99
	BANK OF AMERICA		RECREATION SERVICES	45.00
119661	BANK OF AMERICA	REGISTRATION REIMBURSEMENT	LEGAL-GENL	220.00
119662	BANK OF AMERICA	SUPPLY REIMBURSEMENT	ENGR-GENL	196.37
	BANK OF AMERICA		UTIL ADMIN	196.37
119663	BANK OF AMERICA	TRAVEL REIMBURSEMENT	EQUIPMENT RENTAL	78.75
	BANK OF AMERICA		UTIL ADMIN	338.94
119664	BANK OF AMERICA	REGISTRATION REIMBURSEMENT	COMMUNITY DEVELOPMENT-	550.00
119665	BANK OF AMERICA	REGISTRATION	EXECUTIVE ADMIN	665.00
119666	BANK OF AMERICA	SUPPLY REIMBURSEMENT	WATER/SEWER OPERATION	-23.69
	BANK OF AMERICA		EQUIPMENT RENTAL	46.75
	BANK OF AMERICA		EQUIPMENT RENTAL	46.75
	BANK OF AMERICA		WASTE WATER TREATMENT F	283.93
	BANK OF AMERICA		ROADSIDE VEGETATION	486.08
119667	BANK OF AMERICA	TRAVEL REIMBURSEMENT	UTIL ADMIN	491.24
	BANK OF AMERICA		UTIL ADMIN	565.74
119668	BANK OF AMERICA	SUPPLY REIMBURSEMENT	GENERAL FUND	-38.09
	BANK OF AMERICA		POLICE PATROL	104.35
	BANK OF AMERICA		COMMUNITY SERVICES UNIT	123.94
	BANK OF AMERICA		POLICE TRAINING-FIREARMS	149.00
	BANK OF AMERICA		DETENTION & CORRECTION	171.55

**CITY OF MARYSVILLE  
 INVOICE LIST**

**FOR INVOICES FROM 9/21/2017 TO 9/27/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119668	BANK OF AMERICA	SUPPLY REIMBURSEMENT	K9 PROGRAM	180.65
	BANK OF AMERICA		POLICE ADMINISTRATION	242.09
	BANK OF AMERICA		DETENTION & CORRECTION	350.28
119669	BEEM JR, JIMMIE A		WATER/SEWER OPERATION	88.26
119670	BILLING DOCUMENT SPE	BILL PRINTING SERVICE	UTILITY BILLING	1,777.83
119671	BLODGETT, ANTHONY		WATER/SEWER OPERATION	10.58
119672	BRADLEY, KELLEE	ENTERTAINMENT 10/19/17	OPERA HOUSE	300.00
119673	BSN SPORTS, INC	BASKETBALL SUPPLIES	RECREATION SERVICES	864.78
119674	CADMAN MATERIALS INC	PAY ESTIMATE #1	ARTERIAL STREET-GENL	289,487.25
119675	CAPTAIN DIZZYS EXXON	CAR WASHES	PARK & RECREATION FAC	4.50
	CAPTAIN DIZZYS EXXON		ENGR-GENL	4.50
	CAPTAIN DIZZYS EXXON		ENGR-GENL	4.50
	CAPTAIN DIZZYS EXXON		POLICE PATROL	225.00
119676	CC EDWARDS CONST	HYDRANT METER REFUND	WATER-UTILITIES/ENVIRONM	-194.80
	CC EDWARDS CONST		WATER/SEWER OPERATION	1,150.00
119677	CENTRAL WELDING SUPP	EAR PLUGS	ER&R	85.10
119678	CHAMPION BOLT	GLOVES	PARK & RECREATION FAC	32.58
119679	CLEAN CUT TREE & STU	TREE REMOVAL	PARK & RECREATION FAC	272.75
	CLEAN CUT TREE & STU		PARK & RECREATION FAC	490.95
119680	CNR INC	IP LICENSES	COMMUNITY DEVELOPMENT-	165.83
	CNR INC		UTIL ADMIN	165.83
	CNR INC		ENGR-GENL	165.83
	CNR INC		COMPUTER SERVICES	391.68
119681	COMCAST	CABLE SERVICE-KBCC	BAXTER CENTER APPRE	60.84
119682	COOLINGS, JEFFERY	REFUND BUSINESS LICENSE FEES	GENL FUND BUS LIC & PERMI	65.00
119683	COOP SUPPLY	COMPOST	PARK & RECREATION FAC	8.72
	COOP SUPPLY	HANDLE AND HOSE	PARK & RECREATION FAC	23.76
	COOP SUPPLY	POSTS AND STAPLES	GMA-PARKS	150.39
	COOP SUPPLY	K-9 FOOD	K9 PROGRAM	167.99
	COOP SUPPLY		K9 PROGRAM	186.54
119684	COPIERS NORTHWEST	PRINTER/COPIER CHARGES	UTIL ADMIN	104.06
	COPIERS NORTHWEST		GENERAL SERVICES - OVERT	104.07
	COPIERS NORTHWEST		WASTE WATER TREATMENT F	125.12
	COPIERS NORTHWEST		PROBATION	136.38
	COPIERS NORTHWEST		LEGAL - PROSECUTION	142.55
	COPIERS NORTHWEST		UTILITY BILLING	171.28
	COPIERS NORTHWEST		CITY CLERK	191.05
	COPIERS NORTHWEST		FINANCE-GENL	191.05
	COPIERS NORTHWEST		EXECUTIVE ADMIN	195.26
	COPIERS NORTHWEST		POLICE INVESTIGATION	362.55
	COPIERS NORTHWEST		DETENTION & CORRECTION	492.50
	COPIERS NORTHWEST		PERSONNEL ADMINISTRATIO	593.42
	COPIERS NORTHWEST		OFFICE OPERATIONS	2,052.22
119685	CORRECTIONS, DEPT OF	INMATE MEAL CREDIT	DETENTION & CORRECTION	-1,744.12
	CORRECTIONS, DEPT OF	INMATE MEALS	DETENTION & CORRECTION	91.68
	CORRECTIONS, DEPT OF		DETENTION & CORRECTION	3,605.83
119686	COSTA, RIETTA	INSTRUCTOR SERVICES	RECREATION SERVICES	18.00
119687	CUSTOM COMFORT HOMES	HYDRANT METER REFUND	WATER-UTILITIES/ENVIRONM	-426.80
	CUSTOM COMFORT HOMES		WATER/SEWER OPERATION	1,150.00
119688	DELL	PC	SUNNYSIDE FILTRATION PLAT	1,423.51
119689	DONNELSON ELECTRIC	GAZEBO OUTLETS AND LIGHTS	GMA-PARKS	327.30
	DONNELSON ELECTRIC		GMA-PARKS	1,395.28
119690	DYER, CAROLA		WATER/SEWER OPERATION	47.96
119691	E&E LUMBER	TAPE	PARK & RECREATION FAC	3.97
	E&E LUMBER	IRRIGATION REPAIR PARTS	GMA-PARKS	4.56
	E&E LUMBER	SHIMS	PARK & RECREATION FAC	6.90
	E&E LUMBER	SLIP CAPS	GMA-PARKS	7.38

**CITY OF MARYSVILLE  
 INVOICE LIST  
 FOR INVOICES FROM 9/21/2017 TO 9/27/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119691	E&E LUMBER	PINE	PARK & RECREATION FAC	7.42
	E&E LUMBER	CONCRETE	PARK & RECREATION FAC	8.37
	E&E LUMBER	SHIMS AND CAULKING	PARK & RECREATION FAC	9.71
	E&E LUMBER	IRRIGATION REPAIR PARTS	GMA-PARKS	11.67
	E&E LUMBER	FASTENERS	PARK & RECREATION FAC	13.22
	E&E LUMBER	BRACES AND HARDWARE	SOURCE OF SUPPLY	13.82
	E&E LUMBER	FASTENERS	PARK & RECREATION FAC	16.06
	E&E LUMBER	STUD FINDER AND PUTTY	WASTE WATER TREATMENT F	22.81
	E&E LUMBER	WASP SPRAY	PARK & RECREATION FAC	25.08
	E&E LUMBER	TAPE	PARK & RECREATION FAC	31.39
	E&E LUMBER	CLEANER	PARK & RECREATION FAC	33.55
	E&E LUMBER	FLEX HOSE	ROADWAY MAINTENANCE	36.65
	E&E LUMBER	BAR, BRUSH AND HARDWARE	MAINT OF GENL PLANT	39.18
	E&E LUMBER	CONCRETE	GMA-PARKS	40.14
	E&E LUMBER	EXTENSION POLES AND BRUSHES	PARK & RECREATION FAC	42.47
	E&E LUMBER	PAINT, TRAY, TAPE AND FOAM COV	PARK & RECREATION FAC	43.39
	E&E LUMBER	CONCRETE AND BRUSHES	PARK & RECREATION FAC	52.29
	E&E LUMBER	LEVER	PARK & RECREATION FAC	52.36
	E&E LUMBER	PAINT, TRAYS AND COVERS	PARK & RECREATION FAC	56.87
	E&E LUMBER	THREADED ROD AND FASTENERS	PARK & RECREATION FAC	57.72
	E&E LUMBER	FASTENERS, PUTTY, WEATHERSTRIP	PARK & RECREATION FAC	90.30
	E&E LUMBER	POWER BIT AND TAPE	PARK & RECREATION FAC	116.73
	E&E LUMBER	DOOR	UTIL ADMIN	272.70
	E&E LUMBER	PAINT AND SUPPLIES	PARK & RECREATION FAC	403.23
119692	EMERALD HILLS	COFFEE AND SUPPLIES	BAXTER CENTER APPRE	45.40
119693	ENERSPECT MEDICAL	AED BATTERY	EXECUTIVE ADMIN	133.57
119694	EVERETT STAMP WORKS	STAMP	OFFICE OPERATIONS	98.63
119695	FEDEX	SHIPPING EXPENSE	GMA - STREET	11.94
119696	FIRESTONE	TIRE CREDIT	EQUIPMENT RENTAL	-23.79
	FIRESTONE	TIRES	EQUIPMENT RENTAL	465.80
119697	FRONTIER COMMUNICATI	ACCT #36065125170927115	STREET LIGHTING	49.77
	FRONTIER COMMUNICATI	ACCT #36065774950927115	STREET LIGHTING	49.77
	FRONTIER COMMUNICATI	ACCT #36065836350725085	COMMUNITY DEVELOPMENT-	56.10
	FRONTIER COMMUNICATI		UTIL ADMIN	56.11
	FRONTIER COMMUNICATI	ACCT #36065831360617105	MUNICIPAL COURTS	68.45
	FRONTIER COMMUNICATI	ACCT #36065962121015935	MAINT OF GENL PLANT	68.45
	FRONTIER COMMUNICATI	ACCT #36065827660617105	MUNICIPAL COURTS	79.74
	FRONTIER COMMUNICATI	ACCT #36065976670111075	OFFICE OPERATIONS	79.74
	FRONTIER COMMUNICATI	ACCT #25300981920624965	SEWER LIFT STATION	85.62
	FRONTIER COMMUNICATI	ACCT #36065191230801065	WATER FILTRATION PLANT	99.96
119698	GALLS, LLC	UNIFORM-FOOTE	POLICE PATROL	5.61
	GALLS, LLC		POLICE PATROL	17.40
	GALLS, LLC	UNIFORM-BURNETT, D	POLICE PATROL	88.32
	GALLS, LLC	UNIFORM-FOOTE	POLICE PATROL	181.12
	GALLS, LLC	UNIFORM-BURNETT, D	POLICE PATROL	198.58
119699	GRIFFEN, CHRIS	PUBLIC DEFENDER	PUBLIC DEFENSE	300.00
	GRIFFEN, CHRIS		PUBLIC DEFENSE	300.00
119700	GRITTON, DENISE	REIMBURSE MILEAGE	FINANCE-GENL	254.66
119701	HAGGEN INC.	SMALL BUSINESS SUMMIT EXPENSE	EXECUTIVE ADMIN	267.26
119702	HD FOWLER COMPANY	INVOICE PAID IN ERROR	SOURCE OF SUPPLY	-984.35
	HD FOWLER COMPANY	IRRIGATION REPAIR PARTS	GMA-PARKS	49.73
	HD FOWLER COMPANY		GMA-PARKS	53.35
	HD FOWLER COMPANY		GMA-PARKS	77.75
	HD FOWLER COMPANY		GMA-PARKS	195.03
	HD FOWLER COMPANY	METER BOX AND LID	WATER DIST MAINS	965.40
	HD FOWLER COMPANY	BRASS HARDWARE	WATER/SEWER OPERATION	1,014.95
	HD FOWLER COMPANY	SUNNYSIDE WELL PARTS	SOURCE OF SUPPLY	1,185.81

**CITY OF MARYSVILLE  
 INVOICE LIST  
 FOR INVOICES FROM 9/21/2017 TO 9/27/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119703	HE MITCHELL CO	TAILPIECES	MAINT OF GENL PLANT	3.27
	HE MITCHELL CO	LOCKS	MAINT OF GENL PLANT	119.33
	HE MITCHELL CO	DOOR LEVERS	PUBLIC SAFETY BLDG	187.65
	HE MITCHELL CO	MATERIALS	MAINT OF GENL PLANT	462.42
119704	HOME DEPOT	FLOOR MATS	SOLID WASTE OPERATIONS	248.68
119705	HSBC BANK USA NA AS		WATER/SEWER OPERATION	84.67
119706	HUGGINS, JOHN		WATER/SEWER OPERATION	14.31
119707	HUNT, ROBERT		WATER/SEWER OPERATION	97.29
119708	ITH, SONOCH		GARBAGE	202.07
119709	J. THAYER COMPANY	RECYCLE BINS	COURT FACILITIES	58.85
	J. THAYER COMPANY	CLEANER	ER&R	81.87
119710	KAISER PERMANENTE	PRE-EMPLOYMENT SCREENING	POLICE ADMINISTRATION	2,122.00
119711	KBDB GROUP LLC		WATER/SEWER OPERATION	134.64
119712	KEATON, SANDY	RENTAL DEPOSIT REFUND	GENERAL FUND	100.00
119713	KELLOGG VILLAGE HOME	BEAUTIFICATION GRANT	PROTECTIVE INSPECTIONS	5,000.00
119714	KIM, JAMIE S.	PUBLIC DEFENDER	PUBLIC DEFENSE	390.00
119715	KRAMER, JACQUELINE		WATER/SEWER OPERATION	26.53
119716	LABOR & INDUSTRIES	USER LICENSE-ZARETZKE	POLICE PATROL	75.00
119717	LADD FARM & GARDEN	REFUND BUSINESS LICENSE FEES	GENL FUND BUS LIC & PERMI	65.00
119718	LAKE INDUSTRIES	ROCK	STORM DRAINAGE	103.40
119719	LANCASTER, HOLLI	RENTAL DEPOSIT REFUND	GENERAL FUND	200.00
119720	LASTING IMPRESSIONS	HATS	PARK & RECREATION FAC	194.42
	LASTING IMPRESSIONS	SHIRTS	ER&R	538.95
119721	LES SCHWAB TIRE CTR	TIRES	ER&R	1,605.08
119722	LOWES HIW INC	STRAPS	SOURCE OF SUPPLY	26.90
119723	MAPLES, JAMES	PER DIEM 10/6-10/8	POLICE TRAINING-FIREARMS	160.00
119724	MARYSVILLE PRINTING	BROCHURES	OPERA HOUSE	87.28
	MARYSVILLE PRINTING	FLYERS	RECREATION SERVICES	415.46
	MARYSVILLE PRINTING		RECREATION SERVICES	415.46
	MARYSVILLE PRINTING	BUSINESS CARDS	POLICE PATROL	568.90
119725	MARYSVILLE SCHOOL	FACILITY USEAGE-ACE	RECREATION SERVICES	72.00
	MARYSVILLE SCHOOL	FACILITY USEAGE-TMS	RECREATION SERVICES	120.00
	MARYSVILLE SCHOOL	FACILITY USEAGE-GROVE	RECREATION SERVICES	546.00
	MARYSVILLE SCHOOL	FACILITY USEAGE-ACE	RECREATION SERVICES	1,275.00
119726	MARYSVILLE, CITY OF	UTILITY SERVICE-1518 1ST ST	GMA - STREET	59.83
	MARYSVILLE, CITY OF	UTILITY SERVICE-1529 3RD ST IR	WATER SERVICES	191.63
119727	MCCOY, CHARLOTTE M		WATER/SEWER OPERATION	5.13
119728	MCRAE, BLAINE & WEND		WATER/SEWER OPERATION	20.89
119729	MODERN ICON	HARNESSES AND COLLAR	GENERAL FUND	-57.33
	MODERN ICON		K9 PROGRAM	687.33
119730	NATIONAL BARRICADE	SIGNS AND STANDS	TRAFFIC CONTROL DEVICES	395.74
	NATIONAL BARRICADE		TRAFFIC CONTROL DEVICES	1,244.73
119731	NAVIA BENEFIT	FLEX PLAN FEES	PERSONNEL ADMINISTRATIO	66.40
119732	NORTHSTAR CHEMICAL	SODIUM HYPOCHLORITE	WATER FILTRATION PLANT	908.00
	NORTHSTAR CHEMICAL		WATER QUAL TREATMENT	1,354.40
	NORTHSTAR CHEMICAL		WASTE WATER TREATMENT F	4,102.16
	NORTHSTAR CHEMICAL		WASTE WATER TREATMENT F	4,372.73
119733	OFFICE DEPOT	OFFICE SUPPLIES	ENGR-GENL	22.35
	OFFICE DEPOT		POLICE PATROL	45.88
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	80.58
	OFFICE DEPOT		STORM DRAINAGE	86.19
	OFFICE DEPOT		UTIL ADMIN	98.18
	OFFICE DEPOT		POLICE PATROL	107.53
	OFFICE DEPOT		UTIL ADMIN	134.23
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	150.21
	OFFICE DEPOT		POLICE PATROL	584.22
119734	OWEN EQUIPMENT	RUDDER PUMP, SCREEN AND GASKET	EQUIPMENT RENTAL	15,917.27



**CITY OF MARYSVILLE  
 INVOICE LIST**

**FOR INVOICES FROM 9/21/2017 TO 9/27/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119734	OWEN EQUIPMENT	SWEEPER REPAIR #H002	STORM DRAINAGE	37,814.93
119735	PARTSMASTER	BITS	EQUIPMENT RENTAL	204.84
119736	PATRICK, KRISTIN		WATER/SEWER OPERATION	333.92
119737	PETTY CASH- PW	PARKING AND LICENSING REIMBURS	PURCHASING/CENTRAL STOF	6.00
	PETTY CASH- PW		EQUIPMENT RENTAL	44.75
	PETTY CASH- PW		EQUIPMENT RENTAL	44.75
	PETTY CASH- PW		EQUIPMENT RENTAL	44.75
119738	PGC INTERBAY LLC	PROFESSIONAL SERVICES	GOLF COURSE	-41.62
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	PRO-SHOP	1.87
	PGC INTERBAY LLC	PROFESSIONAL SERVICES	PRO-SHOP	29.32
	PGC INTERBAY LLC		PRO-SHOP	31.46
	PGC INTERBAY LLC		MAINTENANCE	38.92
	PGC INTERBAY LLC		PRO-SHOP	46.01
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	PRO-SHOP	51.69
	PGC INTERBAY LLC		PRO-SHOP	56.24
	PGC INTERBAY LLC		MAINTENANCE	56.24
	PGC INTERBAY LLC	PROFESSIONAL SERVICES	MAINTENANCE	65.07
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	MAINTENANCE	83.63
	PGC INTERBAY LLC	PROFESSIONAL SERVICES	PRO-SHOP	89.00
	PGC INTERBAY LLC		MAINTENANCE	101.86
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	PRO-SHOP	106.98
	PGC INTERBAY LLC		MAINTENANCE	126.71
	PGC INTERBAY LLC		PRO-SHOP	143.44
	PGC INTERBAY LLC		MAINTENANCE	159.29
	PGC INTERBAY LLC		MAINTENANCE	180.20
	PGC INTERBAY LLC		MAINTENANCE	186.41
	PGC INTERBAY LLC	PROFESSIONAL SERVICES	MAINTENANCE	193.60
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	PRO-SHOP	225.54
	PGC INTERBAY LLC	PROFESSIONAL SERVICES	PRO-SHOP	313.33
	PGC INTERBAY LLC		MAINTENANCE	369.22
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	PRO-SHOP	461.97
	PGC INTERBAY LLC	PROFESSIONAL SERVICES	PRO-SHOP	590.20
	PGC INTERBAY LLC		MAINTENANCE	722.15
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	MAINTENANCE	723.85
	PGC INTERBAY LLC	PROFESSIONAL SERVICES	MAINTENANCE	753.57
	PGC INTERBAY LLC		GOLF COURSE	1,008.53
	PGC INTERBAY LLC		PRO-SHOP	1,027.30
	PGC INTERBAY LLC		PRO-SHOP	1,075.77
	PGC INTERBAY LLC		PRO-SHOP	1,680.00
	PGC INTERBAY LLC		MAINTENANCE	1,756.14
	PGC INTERBAY LLC		MAINTENANCE	2,030.79
	PGC INTERBAY LLC	GOLF COURSE PAYROLL	PRO-SHOP	6,257.93
	PGC INTERBAY LLC		MAINTENANCE	9,305.82
119739	PILCHUCK RENTALS	LOWER RUBBER PADS	SMALL ENGINE SHOP	28.32
	PILCHUCK RENTALS	GEAR CASE ASSEMBLIES AND DEFLE	SMALL ENGINE SHOP	266.60
	PILCHUCK RENTALS	CLUTCH ASSEMBLIES	SMALL ENGINE SHOP	269.89
119740	PLATT ELECTRIC	BLADES AND SMALL TOOLS	TRANSPORTATION MANAGEM	48.39
	PLATT ELECTRIC	BULBS	WASTE WATER TREATMENT F	188.52
	PLATT ELECTRIC	LIGHTING PARTS	SEWER LIFT STATION	441.29
119741	POSTAL SERVICE	POSTAGE	COMMUNITY DEVELOPMENT-	67.33
	POSTAL SERVICE		UTIL ADMIN	91.45
119742	PROFORCE LAW ENFORC	TASER CARTRIDGES	POLICE TRAINING-FIREARMS	1,498.49
119743	PUD	ACCT #2051-3624-5	SEWER LIFT STATION	15.90
	PUD	ACCT #2024-6103-4	UTIL ADMIN	16.20
	PUD	ACCT #2207-6180-7	OPERA HOUSE	16.44
	PUD	ACCT #2023-7865-9	MAINT OF GENL PLANT	17.01
	PUD	ACCT #2020-3113-4	PUMPING PLANT	17.17

**CITY OF MARYSVILLE  
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**FOR INVOICES FROM 9/21/2017 TO 9/27/2017**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119743	PUD	ACCT #2024-9948-9	COMMUNITY EVENTS	17.24
	PUD	ACCT #2051-9537-3	PARK & RECREATION FAC	17.58
	PUD	ACCT #2016-7213-6	SEWER LIFT STATION	20.63
	PUD	ACCT #2016-6804-3	PARK & RECREATION FAC	25.17
	PUD	ACCT #2021-7815-8	SEWER LIFT STATION	26.41
	PUD	ACCT #2035-6975-1	STORM DRAINAGE	27.21
	PUD	ACCT #2024-7643-8	SEWER LIFT STATION	28.58
	PUD	ACCT #2023-6855-1	PARK & RECREATION FAC	31.36
	PUD	ACCT #2207-9273-3	STREET LIGHTING	31.66
	PUD	ACCT #2006-5074-5	TRANSPORTATION MANAGEM	32.23
	PUD	ACCT #2026-9433-7	TRANSPORTATION MANAGEM	36.48
	PUD	ACCT #2023-6853-6	TRANSPORTATION MANAGEM	40.55
	PUD	ACCT #2027-9465-7	TRANSPORTATION MANAGEM	43.11
	PUD	ACCT #2025-2469-0	PUMPING PLANT	44.74
	PUD	ACCT #2030-0516-0	STREET LIGHTING	45.24
	PUD	ACCT #2031-9973-2	TRANSPORTATION MANAGEM	45.91
	PUD	ACCT #2034-3089-7	STREET LIGHTING	47.11
	PUD	ACCT #2006-2538-2	SEWER LIFT STATION	49.56
	PUD	ACCT #2021-0219-0	TRANSPORTATION MANAGEM	50.11
	PUD	ACCT #2024-2648-2	PUBLIC SAFETY BLDG	51.56
	PUD	ACCT #2008-2727-7	TRANSPORTATION MANAGEM	53.10
	PUD	ACCT #2005-7184-2	TRANSPORTATION MANAGEM	56.56
	PUD	ACCT #2023-6854-4	TRANSPORTATION MANAGEM	56.92
	PUD	ACCT #2021-7595-6	TRAFFIC CONTROL DEVICES	57.79
	PUD	ACCT #2035-1961-6	NON-DEPARTMENTAL	58.04
	PUD	ACCT #2021-4311-1	TRANSPORTATION MANAGEM	59.65
	PUD	ACCT #2020-0032-9	PARK & RECREATION FAC	61.39
	PUD	ACCT #2022-8858-5	TRANSPORTATION MANAGEM	64.64
	PUD	ACCT #2020-1258-9	PARK & RECREATION FAC	73.25
	PUD	ACCT #2000-8403-6	TRANSPORTATION MANAGEM	74.90
	PUD	ACCT #2007-9006-1	PARK & RECREATION FAC	76.57
	PUD	ACCT #2010-2169-8	PARK & RECREATION FAC	87.78
	PUD	ACCT #2052-3773-8	TRAFFIC CONTROL DEVICES	89.78
	PUD	ACCT #2032-3100-6	TRANSPORTATION MANAGEM	90.75
	PUD	ACCT #2207-6117-5	OPERA HOUSE	97.56
	PUD	ACCT #2024-6354-3	SEWER LIFT STATION	97.57
	PUD	ACCT #2025-5745-0	STREET LIGHTING	102.54
	PUD	ACCT #2052-3927-0	TRAFFIC CONTROL DEVICES	107.65
	PUD	ACCT #2208-3888-2	TRAFFIC CONTROL DEVICES	125.12
	PUD	ACCT #2010-2160-7	PARK & RECREATION FAC	171.06
	PUD	ACCT #2010-6528-1	PARK & RECREATION FAC	177.14
	PUD	ACCT #2032-2345-8	PARK & RECREATION FAC	181.56
	PUD	ACCT #2054-1976-5	PUBLIC SAFETY BLDG	188.19
	PUD	ACCT #2048-2122-7	TRAFFIC CONTROL DEVICES	198.48
	PUD	ACCT #2002-2385-7	PARK & RECREATION FAC	226.65
	PUD	ACCT #2004-7954-1	COMMUNITY CENTER	243.29
	PUD	ACCT #2000-7044-9	TRANSPORTATION MANAGEM	252.25
	PUD	ACCT #2012-4769-9	STREET LIGHTING	269.72
	PUD	ACCT #2023-0972-0	TRAFFIC CONTROL DEVICES	324.12
	PUD	ACCT #2211-9254-5	PUBLIC SAFETY BLDG	332.88
	PUD	ACCT #2026-8928-7	WASTE WATER TREATMENT F	374.83
	PUD	ACCT #2208-2414-8	WASTE WATER TREATMENT F	567.77
	PUD	ACCT #2005-8648-5	SEWER LIFT STATION	643.20
	PUD	ACCT #2213-2008-8	SUNNYSIDE FILTRATION PLAI	1,060.86
	PUD	ACCT #2008-2454-8	MAINT OF GENL PLANT	1,404.98
	PUD	ACCT #2011-4725-3	PUMPING PLANT	2,777.30
	PUD	ACCT #2003-0347-7	WATER FILTRATION PLANT	2,903.66

**CITY OF MARYSVILLE  
 INVOICE LIST**

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<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119743	PUD	ACCT #2014-6303-1	PUBLIC SAFETY BLDG	3,343.82
	PUD	ACCT #2015-7792-1	PUMPING PLANT	5,471.54
	PUD	ACCT #2014-2063-5	WASTE WATER TREATMENT F	7,532.49
	PUD	ACCT #2020-7500-8	WASTE WATER TREATMENT F	10,319.99
	PUD	ACCT #2017-2118-0	WASTE WATER TREATMENT F	13,810.45
119744	ROY ROBINSON	SENSOR	EQUIPMENT RENTAL	80.08
119745	RUTH, MARIA MUDD	ENTERTAINMENT 9/26/17	OPERA HOUSE	100.00
119746	SEIBERT, JEFF	REIMBURSE DC CONFERENCE EXPENS	CITY COUNCIL	1,224.57
119747	SHERWIN WILLIAMS	PAINT AND RAGS	PUBLIC SAFETY BLDG	72.49
119748	SHOVE, PETE	PER DIEM 10/2-10/6	POLICE PATROL	265.50
119749	SIX ROBBLEES INC	WHEEL WEIGHTS	EQUIPMENT RENTAL	68.45
119750	SMITH, CINDY I		WATER/SEWER OPERATION	34.40
119751	SNO CO PUBLIC WORKS	SOLID WASTE CHARGES	SOLID WASTE OPERATIONS	159,605.00
119752	SNO CO TREASURER	CRIME VICTIM/WITNESS FUNDS	CRIME VICTIM	12,131.76
119753	SNO CO TREASURER	INMATE PRESCRIPTIONS	DETENTION & CORRECTION	0.99
119754	SOUND PUBLISHING	NOTICES	CITY CLERK	40.13
119755	SOUND PUBLISHING	ADVERTISING	OPERA HOUSE	135.00
119756	SOUND PUBLISHING	LEGAL ADS	COMMUNITY DEVELOPMENT-	359.47
119757	SOUND SAFETY	JEANS-GIEBEL	UTIL ADMIN	128.35
	SOUND SAFETY	BOOTS-GIEBEL	UTIL ADMIN	153.03
	SOUND SAFETY	BOOTS-BALLOU	SOLID WASTE OPERATIONS	186.39
119758	SOUND TRACTOR	CABLE	SMALL ENGINE SHOP	55.07
119759	STAPLES	OFFICE SUPPLIES	MUNICIPAL COURTS	12.75
	STAPLES		PROBATION	47.52
	STAPLES		UTIL ADMIN	58.88
	STAPLES		UTIL ADMIN	58.88
	STAPLES		PROBATION	99.84
	STAPLES		MUNICIPAL COURTS	142.58
	STAPLES		PERSONNEL ADMINISTRATIO	229.62
	STAPLES		MUNICIPAL COURTS	299.55
	STAPLES		MUNICIPAL COURTS	392.74
119760	STATE AUDITORS OFFIC	AUDIT PERIOD 16-16	NON-DEPARTMENTAL	874.04
	STATE AUDITORS OFFIC		UTIL ADMIN	874.04
119761	STATE PATROL	BACKGROUND CHECKS	PERSONNEL ADMINISTRATIO	156.00
	STATE PATROL	FINGERPRINT ID SERVICES	GENERAL FUND	348.00
119762	STEVENS, JULIET		WATER/SEWER OPERATION	73.00
119763	STONEWAY ELECTRIC	SERVICE CHARGE	MAINT OF GENL PLANT	29.74
	STONEWAY ELECTRIC	PW SHOP LIGHTING	MAINT OF GENL PLANT	1,982.41
119764	SUPERION LLC	TRAKIT USER LICENSES	PUMPING PLANT	218.21
	SUPERION LLC		STORM DRAINAGE	218.21
	SUPERION LLC		UTIL ADMIN	327.30
	SUPERION LLC		WATER DIST MAINS	327.30
119765	SUPPLYWORKS	JANITORIAL SUPPLIES	UTIL ADMIN	233.39
119766	SWEET, RALPH & LINDA		WATER/SEWER OPERATION	116.57
119767	TACOMA SCREW PRODUCT	FUSE HOLDER	EQUIPMENT RENTAL	66.21
	TACOMA SCREW PRODUCT	CLIPS AND RETAINERS	EQUIPMENT RENTAL	74.08
	TACOMA SCREW PRODUCT	HARDWARE	EQUIPMENT RENTAL	200.41
119768	TERRY, SHAUN & AMBER		WATER/SEWER OPERATION	346.53
119769	THORNESS, WILLIAM R	ENTERTAINMENT 10/24/17	OPERA HOUSE	100.00
119770	TULALIP FUN COMMITTE	RENTAL DEPOSIT REFUND	GENERAL FUND	100.00
119771	TYLER TECHNOLOGIES	CLIENT MAINTENANCE	COMPUTER SERVICES	2,945.70
	TYLER TECHNOLOGIES	MUNIS OSDBA	COMPUTER SERVICES	15,720.10
	TYLER TECHNOLOGIES	LICENSING SUPPORT	COMPUTER SERVICES	73,514.95
119772	UNDERHILL, DAVID & V		WATER/SEWER OPERATION	380.78
119773	VINYL SIGNS & BANNER	TRAIL SIGNS	PARK & RECREATION FAC	259.22
	VINYL SIGNS & BANNER	JUNK IN THE TRUNK BANNERS	COMMUNITY CENTER	261.84
119774	WA AUDIOLOGY SRVCS	TESTING	EXECUTIVE ADMIN	40.00

**CITY OF MARYSVILLE  
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<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
119775	WA STATE TREASURER	PUBLIC SAFETY & BLDG REVENUE	GENERAL FUND	243.00
	WA STATE TREASURER		GENERAL FUND	40,777.80
119776	WABO	REGISTRATION-DORCAS	COMMUNITY DEVELOPMENT-	60.00
119777	WALTER E NELSON CO.	JANITORIAL SUPPLY CREDIT	PARK & RECREATION FAC	-237.23
	WALTER E NELSON CO.	JANITORIAL SUPPLIES	PARK & RECREATION FAC	234.08
	WALTER E NELSON CO.		PARK & RECREATION FAC	559.14
119778	WEEWIE, MARCIA L		GARBAGE	36.18
119779	WELCOME COMMUNICATIO	BATTERIES	POLICE PATROL	578.60
119780	WEST PAYMENT CENTER	WEST INFORMATION CHARGES	POLICE INVESTIGATION	258.73
	WEST PAYMENT CENTER		LEGAL - PROSECUTION	425.49
	WEST PAYMENT CENTER		LEGAL-GENL	425.49
119781	WESTERN PETERBILT	CABLE ASSEMBLY	EQUIPMENT RENTAL	22.68
	WESTERN PETERBILT	SWITCH	EQUIPMENT RENTAL	45.48
	WESTERN PETERBILT	SENSOR	ER&R	222.54
119782	WESTERN SYSTEMS	UPS REPLACEMENT PARTS	STREET LIGHTING	2,391.09
<b>WARRANT TOTAL:</b>				<b><u>2,137,959.82</u></b>


**REASON FOR VOIDS:**

- UNCLAIMED PROPERTY
- INITIATOR ERROR
- WRONG VENDOR
- CHECK LOST/DAMAGED IN MAIL

# *Index #4*

**CITY OF MARYSVILLE AGENDA BILL**  
**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/09/17**

<b>AGENDA ITEM:</b>	
Authorization request to purchase a 24'x40' Modular Office Building identified in the 2017/18 Budget	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Kari Chennault	
<b>DEPARTMENT:</b>	
Public Works	
<b>ATTACHMENTS:</b>	
N/A	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
4014378.564000.1723	\$131,000
<b>SUMMARY:</b>	

This request is for purchase authorization for a 20' x 40' modular office building for additional space for the Water Resources Division. This modular building was budgeted for in the 2017-2018 Biennial Budget and is being purchased through the Intergovernmental Cooperative Purchasing Agreement. The Cooperative Purchasing Agreement was discussed and approved for use at the January 23, 2017 Council meeting.

The original budgeted amount was for \$95,000 however through the process of identifying site placement and structural requirements due to the flood plain, there was an increase to the initial budget estimate. To respond to this overrun, staff have identified other budgeted projects within the division where there can be underruns, i.e. the Kellogg Prerotation Basin, budgeted for \$175,000 and staff have identified a different pumping style that is expected to cost less than \$100,000.

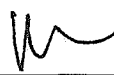
**RECOMMENDED ACTION:**

Staff recommends City Council authorize the purchase of the 24'x40' modular office building.

# *Index #5*

**CITY OF MARYSVILLE AGENDA BILL**  
**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/09/17**

<b>AGENDA ITEM:</b>		
Budgeted fleet purchases exceeding a total cost of \$75,000		
<b>PREPARED BY:</b>		<b>DIRECTOR APPROVAL:</b> 
Kari Chennault		
<b>DEPARTMENT:</b>		
Public Works		
<b>ATTACHMENTS:</b>		
N/A		
<b>BUDGET CODE:</b>		<b>AMOUNT:</b>
50100048.564000		\$359,875.51
<b>SUMMARY:</b>		
<p>This agenda bill is to request the Councilmembers acceptance of the purchase of rolling fleet, as identified in the 2017/2018 Budget that exceeds the purchase price of \$75,000 as required by Resolution No. 2415 as adopted May 8, 2017.</p>		
<b>Vehicle and Description</b>	<b>Budgeted Amount</b>	<b>Actual Cost</b>
Cab and chassis for the dump truck to be built to replace vehicle #252	\$225,000	\$164,441.33
2017 Freightliner MT45 step van to replace vehicle #502	\$95,000	\$111,203.63
2017 Ford F550 Crew Cab 4x4 with switch and go body	\$95,000	\$84,230.55


**RECOMMENDED ACTION:** Staff requests that Councilmembers authorize the Mayor to approve the purchases identified above for three pieces of rolling fleet.



# *Index #6*

**CITY OF MARYSVILLE AGENDA BILL**  
**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE:** October 9, 2017

<b>AGENDA ITEM:</b> Project Acceptance – 2016 Pavement Preservation	
<b>PREPARED BY:</b> Kyle Woods, Project Engineer	<b>DIRECTOR APPROVAL:</b> 
<b>DEPARTMENT:</b> Engineering	
<b>ATTACHMENTS:</b> Notice of Physical Completion, Vicinity Map	
<b>BUDGET CODE:</b> 10200030.548000.TB601	<b>AMOUNT:</b> \$1,119,161.78

**SUMMARY:**

The 2016 Pavement Preservation Program included the resurfacing of streets and pavement repair as shown on the attached map. The program is funded by the Transportation Benefit District.

The project was awarded to Cemex Constuction Materials Pacific LLC on May 23, 2016 in the amount of \$1,063,608.65. Cemex completed the project on September 1, 2017 with a total project cost of \$1,119,161.78, which was \$55,553.13, or 5.2% higher than the original bid price.

Work performed under this contract was inspected by City staff. The work was found to be physically complete in accordance with the approved plans and specifications. Staff recommends Council's acceptance of the project for closeout.

**RECOMMENDED ACTION:**

Staff recommends that Council authorize the Mayor to accept the 2016 Pavement Preservation Program, starting the 45-day lien filing period for project closeout.



**PUBLIC WORKS**  
Kevin Nielsen, *Director*

80 Columbia Avenue  
Marysville, Washington 98270  
Phone (360) 363-8100  
Fax (360) 363-8284

9/1/2017

Cadman Materials Inc.  
20700 44<sup>th</sup> Ave W, Suite 240  
Lynnwood, WA 98036

**Subject: 2016 Pavement Preservation Program – Notice of Physical Completion**

Dear Catherine,

In accordance with Section 1-05.11(2) of the Special Provisions, the 2016 Pavement Preservation Program was considered physically complete as of Friday, September 1, 2017.

This notification does not constitute final acceptance. Recommendation for final acceptance will be sent to the City Council for approval at the first available council meeting. This date of final acceptance shall start the forty-five (45) day lien period for the release of your retainage bond upon receipt of the following.

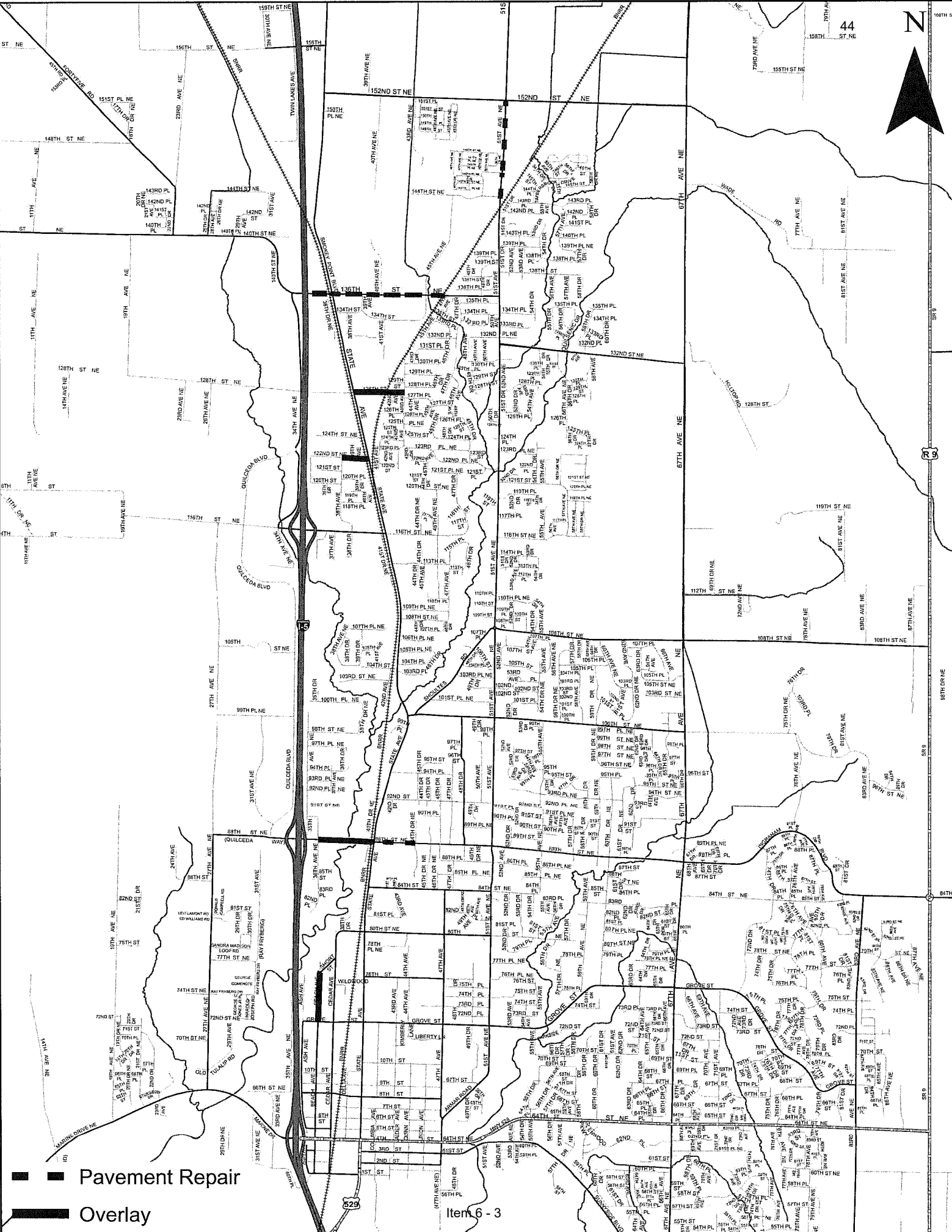
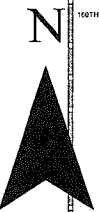
1. Certificate of Release from the Department of Revenue
2. Certificate of Release from the Employment Security Department
3. Certificate of Release from the Department of L&I
4. Affidavit of Wages Paid (to be submitted by Cadman to the City)

It was a pleasure working with Cemex on this year's Pavement Preservation Program. We look forward to working with you in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Woods", is written over a light blue horizontal line.

Kyle Woods  
Project Engineer



■ Pavement Repair  
■ Overlay

# *Index #7*

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: OCTOBER 9, 2017**


<b>AGENDA ITEM:</b>		
Budgeted Filter Feed Pump Replacement purchases exceeding a total cost of \$75,000		
<b>PREPARED BY:</b>		<b>DIRECTOR APPROVAL:</b>
Jeff Cobb		<i>JCC for KN</i>
<b>DEPARTMENT:</b>		
Public Works		
<b>ATTACHMENTS:</b>		
N/A		
<b>BUDGET CODE:</b>		<b>AMOUNT:</b>
40142480.564000		\$311,075.20
<b>SUMMARY:</b>		
<p>This agenda bill is to request the City Council acceptance of the purchase of Filter Feed Pump Replacements, as identified in the 2017/2018 Budget that exceeds the purchase price of \$75,000 as required by Resolution No. 2415 as adopted May 8, 2017.</p>		
<b>Equipment Description</b>	<b>Budgeted Amount</b>	<b>Actual Cost</b>
2 – 20 Hp Fairbanks Morse Vertical Turbine Solids Handling Pumps built to match existing soleplate and discharge head.	\$400,000	\$311,075.20

**RECOMMENDED ACTION:** Staff requests that City Council authorize the Mayor to approve the purchases identified above for the two Filter Feed Pumps.

# *Index #8*

**CITY OF MARYSVILLE AGENDA BILL**  
**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/09/17**

<b>AGENDA ITEM:</b>	
Land Use Restriction and Real Property Covenant	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Brooke Ensor	
<b>DEPARTMENT:</b>	
Public Works	
<b>ATTACHMENTS:</b>	
Land Use Restriction and Real Property Covenant	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
NA	\$0.00
<b>SUMMARY:</b> The Land Use Restriction and Real Property Covenant will encumber four City owned properties that are flooded daily within the Qwuloolt restoration project area. The Land Use Restriction and Real Property Covenant must be signed and recorded in order to receive advance wetland mitigation credits. The wetland mitigation credits can be used for future wetland impacts from City projects.	

**RECOMMENDED ACTION:** Staff recommends that the Council authorize the Mayor to sign the Land Use Restriction and Real Property Covenant.



When Recorded Mail To:

City of Marysville  
1049 State Avenue  
Marysville, Washington 98270

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**DECLARATION OF LAND USE RESTRICTION  
AND REAL PROPERTY COVENANT**

Declarant: City of Marysville, a municipal corporation.

Beneficiaries: State of Washington Department of Ecology; United States Army Corps of Engineers.

Assessor's Tax Parcel ID# and Brief Property Description: 30053400300800 SEC 34 TWP 30 RGE 05RT-28A) 1 AC M/L S OF CREEK IN SW COR NW1/4 SW1/4 and portions of 30053300400200 SEC 33 TWP 30 RGE 05RT-17A) 17.50 AC M/L OF THAT PART NE1/4 SE1/4 LY SLY OF CREEK & 12FT STRIP RUNNING PLL. & ADJ TO W SD OF E LN SW1/4 NE1/4, portions of 30053300401000 SEC 33 TWP 30 RGE 05RT-23) LOT 4 and portions of 00918500099000 Section 34 Township 30 Range 05 Quarter SE HARBOR VIEW VILLAGE BLK 000 D-00 - TRS 990 & 992 & 994-996.

This Declaration of Land Use Restriction and Real Property Covenant (the "real property covenant") is made this \_\_\_\_\_ day of \_\_\_\_\_ 2017, by City of Marysville ("Declarant"), for the benefit of the State of Washington Department of Ecology; and the United States Army Corps of Engineers, referred to herein as "the Beneficiaries".

WHEREAS, the Declarant makes the following recitals:

- A. Declarant is the sole owner in fee simple of the real property located in Snohomish County, Washington, legally described on Exhibit A (the "Property"). A map of the Property is attached to and made part of this real property covenant, as Exhibit B.
- B. The Property possesses natural, open space, ecological, and recreational values that are of great importance to Declarant and the Beneficiaries. These values are referred to herein as the "Conservation Values" of the Property.
- C. The Declarant is creating a real property covenant on this Property in accordance with the process described in the advance wetland mitigation agreement ("Wetland Mitigation Plan"),

approved by and developed in compliance with United States Army Corps of Engineers and State of Washington Department of Ecology and executed in April 2013 (Permit # NWS-2013-209).

NOW, THEREFORE, in consideration of the above and the covenants, terms, conditions and restrictions contained herein, Declarant, does hereby establish a real property covenant on the Property as follows:

1. *Declaration of Real Property Covenant*

Declarant as fee simple owner of the Property voluntarily establishes this real property covenant in perpetuity over the Property, on the terms and conditions set forth, exclusively for the purpose of conserving the Conservation Values of the Property. It is the intent of the Declarant that the covenant shall supersede any prior interests the Declarant has in the property and shall run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

2. *Purpose*

It is the purpose of this real property covenant to ensure that the Property will be retained forever in a natural, open space and scenic condition and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property. Declarant and the Beneficiaries intend that this real property covenant will confine the use of the Property to such activities as are consistent with the purpose of this real property covenant.

3. *Rights of the Beneficiaries*

To accomplish the purpose of this real property covenant the following rights may be exercised by the Beneficiaries:

- (a) To preserve and protect the Conservation Values of the Property;
- (b) To enter upon the Property at reasonable times in order to monitor Declarant's compliance with and otherwise enforce the terms of this real property covenant in accordance with Section 9; provided that, except in cases where the Beneficiaries determine that immediate entry is required to prevent, terminate, or mitigate a violation of this real property covenant, such entry shall be upon prior reasonable notice to Declarant;
- (c) To conduct, with reasonable prior notice to Declarant, survey, site preparation, removal of invasive non-native riparian vegetation, installation of native plants, and other activities associated with wetland mitigation. Nothing herein shall be deemed to imply any obligation to perform such restoration activities; and
- (d) To prevent any activity on or use of the Property that is inconsistent with the purpose of this real property covenant and to require the restoration of such areas or features of

the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in Section 9.

#### 4. *Prohibited Uses*

Any activity on or use of the Property inconsistent with the purpose of this real property covenant is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as permitted in Sections 3 and 5:

(a) *Construction and Improvements.* The placement or construction of any buildings, structures, or other improvements of any kind, including, without limitation, utilities, septic systems, communication lines, communication towers, storage tanks and pipelines.

(b) *Paving and Road and Trail Construction.* The paving or covering of any portion of the Property with concrete, asphalt, gravel, crushed rock, wood shavings or any other paving or surfacing material or the construction of a road or trail.

(c) *Commercial Development.* Any commercial or industrial use or activity on the Property, including, but not limited to, commercial recreational activities involving active recreation.

(d) *Agricultural Activities.* Any domestic animal grazing or agricultural activities of any kind; and application of biocides except when determined by the Beneficiaries to be necessary for the eradication of invasive non-native plant species and such application is by the narrowest spectrum, least persistent material appropriate for the target species.

(e) *Introduced Vegetation.* The planting or introduction of non-native species of plants.

(f) *Waste Disposal.* The disposal, storage, or release of yard waste, hazardous substances, rubbish, garbage, debris, unregistered vehicles, abandoned equipment, parts thereof, or other unsightly or offensive waste or material on the Property. The term "release" shall mean any release, generation, treatment disposal, storage, dumping, burying, abandonment, or migration from off-site. The term "hazardous substances" as used in this real property covenant shall mean any substances, materials, or wastes that are hazardous, toxic, dangerous, harmful or are designed as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous, toxic, dangerous or harmful or as a pollutant by any federal, state, or local law, regulation, statute, or ordinance, including, but not limited to, petroleum or any petroleum product.

(g) *Active Recreation.* Conducting or allowing activities, such as golf courses, ball fields, motocross, equestrian, campgrounds or any other activity involving individuals or the public or private clubs or associations engaging in organized active recreation.

(h) *Hunting.* Conducting or allowing hunting activities, including construction of blinds, camping areas, access trails, and any other hunting related activities.

(i) *Signs.* The placement of commercial signs, billboards, or other commercial advertising material on the Property.

(j) *Mineral Development.* The exploration for, or development and extraction of, any minerals or hydrocarbons.

(k) *Vehicles.* The operation of motorized vehicles except as part of any wetland creation or maintenance activity.

#### 5. *Reserved Rights*

Declarant reserves to itself and to its members and their personal representatives, heirs, successors and assigns, any use of, or activity on, the Property that is not inconsistent with the purpose of the real property covenant and that is not prohibited herein. Without limiting the generality of the foregoing, Declarant specifically reserves the following uses and activities:

- (a) *Maintenance, Monitoring and Emergencies.* The right to undertake activities necessary to maintain and monitor the Conservation Values and to public health, property improvements, or human safety, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity.
- (b) *Fence.* With reasonable prior notice and approval from the Beneficiaries, which will not be unreasonably withheld or delayed, the right to install and maintain fences around the Property, and the Beneficiaries agrees not to remove or damage said fences.
- (c) *Recreational Use.* The right to allow passive recreational use and activities, such as bird watching, photography and the use of human-powered watercraft, provided that such passive recreational use does not include any of the prohibited uses set forth in Section 4 of this real property covenant, and that such passive recreational use is otherwise consistent with the purpose and terms of this real property covenant.
- (d) *Informational Signage.* With reasonable prior notice and approval from the Beneficiaries, which will not be unreasonably withheld or delayed, the right to install informational signage about the conservation values of the property.

#### 6. *Responsibilities of Declarant Not Affected.*

Other than as specified herein, this real property covenant is not intended to impose any legal or other responsibility on the Beneficiaries, or in any way to affect any existing obligation of the Declarant as owner of the Property. This shall apply to:

- (a) *Taxes.* Declarant shall continue to be solely responsible for payment of all taxes and assessments levied against the Property.

(b) *Upkeep and Maintenance, Costs, Legal Requirements, and Liabilities.* Declarant retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property subject to the terms of the Wetland Mitigation Plan. Declarant remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this real property covenant and conducted by Declarant their agents or employees.

(c) *Remediation.* If, at any time, there occurs, or has occurred, a release in, on, or about the Property of any hazardous substances, Declarant agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required. Should Declarant become aware of the release of any hazardous substances on the Property, Declarant shall immediately inform Beneficiaries.

(d) *Control.* Nothing in this real property covenant shall be construed as giving rise to any right or ability in Beneficiaries to exercise physical or managerial control over the day-to-day operations of the Property, or any of Declarant's activities on the Property, or otherwise to become an operator with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), or the Model Toxics Control Act, as amended ("MTCA").

(e) *Liability.* Beneficiaries, except for the United States Army Corps of Engineers, and Declarant and their employees, agents, invitees, and heirs hereby release and agree to indemnify, defend and hold each other harmless from any injury, claim, damage, or loss suffered by Beneficiaries or Declarant or their employees, agents, invitees, or heirs on, around or with regard to the Property except to the extent of the party's or parties' negligent or unlawful actions.

#### 7. *The Beneficiaries' Right to Restore the Property*

In the event that any of the Conservation Values of the Property are impaired, the Beneficiaries shall have the right, but not the obligation, to restore all or portions of the Property.

#### 8. *Access*

No right of access by the general public to any portion of the Property is created by this real property covenant.

#### 9. *Enforcement*

The Beneficiaries shall have the right to prevent and correct violations of the terms of this real property covenant as set forth below. Nothing in the foregoing precludes Beneficiaries from taking regulatory enforcement action.

(a) *Notice of Failure.* If the Beneficiaries determine that the Declarant is in violation of the terms of this real property covenant or that a violation is threatened, the Beneficiaries shall give written notice to Declarant of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this real property covenant, to restore the portion of the

Property so injured to its prior condition in accordance with a plan approved by the Beneficiaries.

(b) *Declarant's Failure to Respond.* In addition to the rights granted in Section 3, including the right of entry, the Beneficiaries may bring an action as provided for in Section 9(c) below if Declarant fails to cure the violation within thirty (30) days after receipt of notice thereof from the Beneficiaries; fails to begin curing such violation within the thirty (30) day period under circumstances where the violation cannot reasonably be cured within the thirty (30) day period; or fails to continue diligently to cure such violation until finally cured.

(c) *The Beneficiaries' Action.* The Beneficiaries may bring action at law or in equity in a court of competent jurisdiction to enforce the terms of this real property covenant, to enjoin the violation, *ex parte* as necessary and as allowed under the applicable civil rules, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this real property covenant or injury to any of the Conservation Values protected by this real property covenant, including damages for the loss of the Conservation Values; and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Declarant's liability therefore, the Beneficiaries, in their sole and absolute discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. All such actions for injunctive relief may be taken without the Beneficiaries being required to post bond or provide other security.

(d) *Immediate Action Required.* If the Beneficiaries, in their sole and absolute discretion, determine that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, The Beneficiaries may pursue remedies under this Section 9 without prior notice to Declarant or without waiting for the period provided for cure to expire.

(e) *Nature of Remedy.* The rights under this Section 9 apply equally in the event of either actual or threatened violations of the terms of this real property covenant. Declarant agrees that the remedies at law for any violation of the terms of this real property covenant are inadequate and Beneficiaries shall be entitled to the injunctive relief described in this Section 9 both prohibitive and mandatory, in addition to such other relief to which Beneficiaries may be entitled, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The remedies described in this Section 9 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

(f) *Costs of Enforcement.* Provided the Beneficiaries first provide Declarant with a Notice of Failure and Declarant fails to respond, all reasonable costs incurred by the Beneficiaries in enforcing the terms of this real property covenant against Declarant, including, without limitation, costs and expenses of suit and reasonable attorney's fees and reasonable consultant's fees, and any costs of restoration necessitated by Declarant's violation of the terms of this real property covenant shall be borne by Declarant. The substantially prevailing party in a judicial enforcement action regarding this real property covenant shall be entitled to reimbursement of all reasonably incurred attorney's fees and litigation expenses.

(g) *The Beneficiaries' Discretion.* Any forbearance by the Beneficiaries to exercise

rights under this real property covenant in the event of any violation of any terms of this real property covenant shall not be deemed or construed to be a waiver of such term or of any rights under this real property covenant. No delay or omission by the Beneficiaries in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

(h) *Acts Beyond Declarant's Control.* Nothing contained in this real property covenant shall be construed to entitle the Beneficiaries to bring any action against Declarant to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from causes beyond Declarant's control, including, without limitation, fire, flood, storm, and earth movement, nor shall Declarant be required to take steps to abate or mitigate injury to the Property resulting from such causes.

10. *Alternate Dispute Resolution*

If a dispute arises between the parties concerning the consistency of any proposed use or activity with this real property covenant, the parties shall attempt to resolve the dispute through informal discussion. The parties may also agree to refer the dispute to mediation and shall select a single mediator to hear the matter. Each party shall bear its own costs, including attorney's fees, if mediation is pursued under this Section 10. The parties shall share equally the fees and expenses of the mediator.

11. *Notice and Approval*

(a) *Notice.* Whenever notice is required under this real property covenant, the party required to give notice ("Notifying Party") shall give reasonable written notice prior to the date the Notifying Party intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the other party to make an informed judgment as to its consistency with the purpose and terms of this real property covenant.

(b) *Evaluation of Proposed Activities.* The purpose of requiring the Notifying Party to notify the other party prior to undertaking certain permitted uses and activities is to afford the other party an opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the purpose and terms of this real property covenant.

12. *Notice of Transfer of Property by Declarant and Successor and Assigns*

Anytime the Property itself, or any interest in it is transferred, or a legal claim is established by the Declarant to a third party, the Declarant, its successors and assigns, shall notify the Beneficiaries in writing at least 60 days in advance of such action and the document of conveyance, transfer or establishment shall expressly refer to this real property covenant. Declarant shall also include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

**NOTICE: THIS PROPERTY IS SUBJECT TO A CONSERVATION COVENANT GRANTED BY THE CITY OF MARYSVILLE ON \_\_\_\_\_ AND**

**RECORDED WITH THE SNOHOMISH COUNTY AUDITOR UNDER RECORDING NUMBER (\_\_\_\_\_). USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.**

Unless otherwise agreed to in writing by Beneficiaries, Declarant shall provide Beneficiaries with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

13. *Termination of Real property Covenant*

(a) *Frustration of Purpose.* This real property covenant may only be terminated with the concurrence of the Beneficiaries in the event the purpose for this covenant can no longer be fulfilled due to circumstances beyond the Declarant's control but not to include a failure to enforce the terms of this restrictive covenant. In that event, concurrence with the termination of this real property covenant must be received from Beneficiaries.

(b) *Economic Value.* The fact that the Property may become greatly more economically valuable if it were used in a manner that is either expressly prohibited by this real property covenant or inconsistent with the purpose of this real property covenant, or that neighboring properties may in the future be put entirely to uses that would not be permitted hereunder, has been considered by the Declarant in granting this real property covenant. It is the intent of both Declarant and the Beneficiaries that any such change in the economic value of the Property from other use shall not be assumed to be circumstances justifying the termination or extinguishment of this real property covenant pursuant to this section.

14. *Modification*

This real property covenant may be amended only with the concurrence of the Beneficiaries, provided that any such amendment shall be consistent with the purpose of the real property covenant and shall not affect its perpetual duration. All amendments shall be in writing, approved by the Beneficiaries and recorded in the real property records of Snohomish County, Washington.

15. *Interpretation*

This real property covenant shall be interpreted under the laws of Washington, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

16. *Perpetual Duration*

This real property covenant shall be a binding servitude running with the land in perpetuity.



17. *Notices*

Any notices required by this real property covenant shall be in writing and shall be personally delivered or sent by first class mail to the Declarant, at the following address, unless the Beneficiaries have been notified of a change of address.

To Declarant:

City of Marysville  
1049 State Ave  
Marysville, WA 98270

18. *Severability*

If any provision of this real property covenant is found to be invalid, illegal or unenforceable, that finding shall not affect the validity, legality or enforceability of the remaining provisions.

19. *Entire Agreement*

This instrument sets forth the entire agreement of the parties with respect to the terms of this Agreement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the terms of this Agreement, all of which merge herein.

IN WITNESS WHEREOF, the Declarant has set its hands on the date first written above.

Declarant:

City of Marysville

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WASHINGTON            )  
  ) ss  
County of \_\_\_\_\_            )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me the undersigned, a Notary Public for the State of Washington, personally appeared \_\_\_\_\_ who stated on oath that he is \_\_\_\_\_ and authorized to execute the within instrument on behalf of said company and acknowledged said instrument as the free and voluntary act of the company for the uses and purposes mentioned therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove first written.

\_\_\_\_\_  
Notary Public for the State of Washington  
Residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

## EXHIBIT A

### Legal Description

The following parcels of real property located in Snohomish County, Washington:

#### WETLAND MITIGATION AREA WEST 2

##### LEGAL DESCRIPTION

TPN: 30053400300800

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M., LYING SOUTHWESTERLY OF THE CENTERLINE OF JONES CREEK.

#### WETLAND MITIGATION AREA WEST 3

##### LEGAL DESCRIPTION

TPN: 30053300401000

THAT PORTION GOVERNMENT LOT 4 IN THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M., LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4;  
 THENCE SOUTH 0 DEGREES 33 MINUTES 04 SECONDS WEST, ALONG THE EAST LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 1137.81 FEET TO A FOUND MONUMENT AT THE MEANDER CORNER;  
 THENCE NORTH 0 DEGREES 33 MINUTES 04 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 2.30 FEET TO THE TRUE POINT OF BEGINNING OF THE LINE TO BE DESCRIBED;  
 THENCE NORTH 40 DEGREES 35 MINUTES 33 SECONDS WEST A DISTANCE OF 112.62 FEET;  
 THENCE NORTH 23 MINUTES 14 MINUTES 51 SECONDS WEST A DISTANCE OF 13.28 FEET;  
 THENCE NORTH 0 DEGREES 28 MINUTES 48 SECONDS EAST A DISTANCE OF 389.61 FEET;  
 THENCE NORTH 0 DEGREES 42 MINUTES 08 SECONDS EAST A DISTANCE OF 348.72 FEET;  
 THENCE NORTH 1 DEGREE 23 MINUTES 18 SECONDS WEST A DISTANCE OF 88.04 FEET;  
 THENCE NORTH 9 DEGREES 50 MINUTES 44 SECONDS WEST A DISTANCE OF 29.66 FEET;  
 THENCE NORTHWESTERLY ALONG A 305.31 FOOT RADIUS TANGENTIAL CURVE TO THE LEFT, PASSING THROUGH A CENTRAL ANGLE OF 41 DEGREES 52 MINUTES 18 SECONDS, AN ARC DISTANCE OF 223.11 FEET TO A POINT IN THE NORTH LINE OF LINE OF SAID GOVERNMENT LOT 4 THAT BEARS NORTH 88 DEGREES 29 MINUTES 36 SECONDS WEST A DISTANCE OF 200.86 FEET FROM THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4 AND SAID LINE THERE TERMINATING.

SAID LINE ALSO BEING THE EASTERLY LINE OF A 15.00 FOOT WIDE ROAD EASEMENT.

## WETLAND MITIGATION AREA WEST I

### LEGAL DESCRIPTION

TPN: 30053300400200

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 30 NORTH, RANGE 5 EAST, WM, LYING SOUTHERLY OF JONES CREEK, DESCRIBED AS LINE 'JC' BELOW AND LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER;

THENCE NORTH 88 DEGREES 24 MINUTES 36 SECONDS WEST, ALONG THE SOUTH LINE OF SAID SUBDIVISION, A DISTANCE OF 200.86 FEET TO THE TRUE POINT OF BEGINNING OF THE LINE TO BE DESCRIBED, SAID POINT BEING A POINT IN A 305.37 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, THE CENTER OF WHICH BEARS SOUTH 38 DEGREES 16 MINUTES 58 SECONDS WEST FROM SAID POINT;

THENCE NORTHERLY, ALONG SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 1 DEGREE 58 MINUTES 34 SECONDS, AN ARC DISTANCE OF 10.53 FEET;

THENCE NORTH 53 DEGREES 41 MINUTES 35 SECONDS WEST, TANGENT TO SAID CURVE, A DISTANCE OF 21.30 FEET;

THENCE NORTH 58 DEGREES 13 MINUTES 13 SECONDS WEST A DISTANCE OF 322.73 FEET;

THENCE NORTH 60 DEGREES 11 MINUTES 01 SECONDS WEST A DISTANCE OF 148.34 FEET;

THENCE NORTH 61 DEGREES 08 MINUTES 50 SECONDS WEST A DISTANCE OF 241.10 FEET;

THENCE NORTH 61 DEGREES 42 MINUTES 39 SECONDS WEST A DISTANCE OF 74.04 FEET;

THENCE WESTERLY ALONG A 308.54 FOOT RADIUS TANGENTIAL CURVE TO THE LEFT, PASSING THROUGH A CENTRAL ANGLE OF 2 DEGREES 36 MINUTES 36 SECONDS, AN ARC DISTANCE OF 16.79 FEET TO LINE 'JC' DESCRIBED BELOW, AND SAID LINE THERE TERMINATING.

SAID LINE ALSO BEING THE EASTERLY LINE OF A 15.00' WIDE ROAD EASEMENT.

LINE 'JC'

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 33;

THENCE NORTH 0 DEGREES 47 MINUTES 10 SECONDS EAST, ALONG THE WEST LINE OF SAID SUBDIVISION, A DISTANCE OF 247.01 FEET;

THENCE NORTH 85 DEGREES 34 MINUTES 27 SECONDS EAST A DISTANCE OF 90.96 FEET;

THENCE NORTH 14 DEGREES 49 MINUTES 02 SECONDS EAST A DISTANCE OF 38.01 FEET;

THENCE NORTH 25 DEGREES 39 MINUTES 22 SECONDS EAST A DISTANCE OF 39.54 FEET;

THENCE NORTH 40 DEGREES 20 MINUTES 37 SECONDS EAST A DISTANCE OF 60.15 FEET;

THENCE SOUTH 87 DEGREES 51 MINUTES 34 SECONDS EAST A DISTANCE OF 143.68 FEET;

THENCE SOUTH 65 DEGREES 11 MINUTES 55 SECONDS EAST A DISTANCE OF 74.61 FEET TO THE TRUE POINT OF BEGINNING OF LINE 'JC' TO BE DESCRIBED;

THENCE NORTH 44 DEGREES 49 MINUTES 48 SECONDS EAST, ALONG THE CENTERLINE OF SAID JONES CREEK AND ITS SOUTHWESTERLY EXTENSION, A DISTANCE OF 253.58 FEET;

THENCE NORTH 21 DEGREES 57 MINUTES 56 SECONDS EAST A, CONTINUING ALONG THE CENTERLINE OF SAID CREEK, A DISTANCE OF 192.50 FEET;

THENCE NORTH 42 DEGREES 40 MINUTES 18 SECONDS EAST A DISTANCE OF 33.97 FEET;

THENCE NORTH 78 DEGREES 19 MINUTES 09 SECONDS EAST A DISTANCE OF 94.26 FEET;

THENCE SOUTH 84 DEGREES 46 MINUTES 58 SECONDS EAST A DISTANCE OF 54.08 FEET;

THENCE SOUTH 74 DEGREES 31 MINUTES 49 SECONDS EAST A DISTANCE OF 107.06 FEET;

THENCE SOUTH 81 DEGREES 37 MINUTES 47 SECONDS EAST A DISTANCE OF 233.33 FEET;

THENCE SOUTH 73 DEGREES 17 MINUTES 31 SECONDS EAST A DISTANCE OF 102.73 FEET;

THENCE SOUTH 44 DEGREES 19 MINUTES 48 SECONDS EAST A DISTANCE OF 108.42 FEET TO A POINT IN THE EAST LINE OF SAID SUBDIVISION THAT BEARS NORTH 0 DEGREES 33 MINUTES

04 SECONDS EAST A DISTANCE OF 654.64 FEET FROM THE SOUTHEAST CORNER OF SAID

SUBDIVISION, AND SAID LINE 'JC' THERE TERMINATING.

NOTE: LINE 'JC' IS THE SOUTHERLY LINE OF PARCEL D AS SHOWN ON THAT RECORD OF

SURVEY PREPARED BY OSTERGAARD-ROBINSON AND ASSOCIATES FOR THE TULALIP TRIBES,

RECORDED UNDER AUDITOR'S FILE NUMBER 200103195004.

WETLAND MITIGATION AREA EAST

LEGAL DESCRIPTION

TPN: 00918500099000

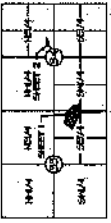
THAT PORTION OF TRACT 994, HARBOR VIEW VILLAGE, ACCORDING TO THE PLAT RECORDED UNDER AUDITOR'S FILE NUMBER 200102065008, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 994;  
 THENCE SOUTH 20 DEGREES 12 MINUTES 47 SECONDS WEST, ALONG THE WESTERLY LINE OF SAID TRACT 994, A DISTANCE OF 141.34;  
 THENCE SOUTH 47 DEGREES 20 MINUTES 21 SECONDS WEST A DISTANCE OF 123.99 FEET;  
 THENCE SOUTH 32 DEGREES 59 MINUTES 58 SECONDS WEST A DISTANCE OF 126.36 FEET;  
 THENCE SOUTH A DISTANCE OF 85.65 FEET;  
 THENCE NORTH 39 DEGREES 44 MINUTES 55 SECONDS EAST A DISTANCE OF 22.25 FEET;  
 THENCE NORTH 24 DEGREES 35 MINUTES 15 SECONDS EAST A DISTANCE OF 15.45 FEET;  
 THENCE NORTH 3 DEGREES 25 MINUTES 35 SECONDS WEST A DISTANCE OF 22.00 FEET;  
 THENCE NORTH 69 DEGREES 57 MINUTES 50 SECONDS EAST A DISTANCE OF 5.50 FEET;  
 THENCE SOUTH 85 DEGREES 30 MINUTES 15 SECONDS EAST A DISTANCE OF 12.85 FEET;  
 THENCE NORTH 50 DEGREES 23 MINUTES 40 SECONDS EAST A DISTANCE OF 13.35 FEET;  
 THENCE NORTH 15 DEGREES 39 MINUTES 50 SECONDS WEST A DISTANCE OF 8.55 FEET;  
 THENCE NORTH 6 DEGREES 10 MINUTES 00 SECONDS EAST A DISTANCE OF 18.10 FEET;  
 THENCE NORTH 17 DEGREES 44 MINUTES 25 SECONDS EAST A DISTANCE OF 13.95 FEET;  
 THENCE NORTH 35 DEGREES 15 MINUTES 20 SECONDS EAST A DISTANCE OF 26.30 FEET;  
 THENCE NORTH 14 DEGREES 10 MINUTES 00 SECONDS EAST A DISTANCE OF 24.00 FEET;  
 THENCE NORTH 45 DEGREES 54 MINUTES 10 SECONDS EAST A DISTANCE OF 23.65 FEET;  
 THENCE NORTH 34 DEGREES 53 MINUTES 30 SECONDS EAST A DISTANCE OF 28.80 FEET;  
 THENCE NORTH 28 DEGREES 51 MINUTES 35 SECONDS EAST A DISTANCE OF 18.35 FEET;  
 THENCE NORTH 51 DEGREES 30 MINUTES 50 SECONDS EAST A DISTANCE OF 23.60 FEET;  
 THENCE NORTH 37 DEGREES 21 MINUTES 40 SECONDS EAST A DISTANCE OF 45.10 FEET;  
 THENCE NORTH 44 DEGREES 49 MINUTES 00 SECONDS EAST A DISTANCE OF 23.00 FEET;  
 THENCE NORTH 67 DEGREES 11 MINUTES 40 SECONDS EAST A DISTANCE OF 50.15 FEET;  
 THENCE NORTH 78 DEGREES 15 MINUTES 35 SECONDS EAST A DISTANCE OF 15.65 FEET;  
 THENCE NORTH 73 DEGREES 42 MINUTES 50 SECONDS EAST A DISTANCE OF 60.35 FEET;  
 THENCE NORTH 79 DEGREES 10 MINUTES 40 SECONDS EAST A DISTANCE OF 26.15 FEET;  
 THENCE NORTH 67 DEGREES 13 MINUTES 50 SECONDS EAST A DISTANCE OF 11.20 FEET;  
 THENCE NORTH 5 DEGREES 47 MINUTES 25 SECONDS EAST A DISTANCE OF 8.40 FEET;  
 THENCE NORTH 76 DEGREES 11 MINUTES 30 SECONDS EAST A DISTANCE OF 10.20 FEET;  
 THENCE SOUTH 56 DEGREES 30 MINUTES 10 SECONDS EAST A DISTANCE OF 8.50 FEET;  
 THENCE SOUTH 81 DEGREES 34 MINUTES 50 SECONDS EAST A DISTANCE OF 37.75 FEET;  
 THENCE NORTH 26 DEGREES 51 MINUTES 50 SECONDS EAST A DISTANCE OF 17.00 FEET;  
 THENCE NORTH 74 DEGREES 16 MINUTES 40 SECONDS EAST A DISTANCE OF 19.30 FEET;  
 THENCE NORTH 42 DEGREES 37 MINUTES 35 SECONDS EAST A DISTANCE OF 11.30 FEET;  
 THENCE NORTH 4 DEGREES 38 MINUTES 45 SECONDS EAST A DISTANCE OF 11.00 FEET;  
 THENCE NORTH 82 DEGREES 30 MINUTES 30 SECONDS EAST A DISTANCE OF 69.10 FEET;  
 THENCE NORTH 10 DEGREES 32 MINUTES 50 SECONDS EAST A DISTANCE OF 32.40 FEET;  
 THENCE SOUTH 78 DEGREES 43 MINUTES 35 SECONDS EAST A DISTANCE OF 17.80 FEET;  
 THENCE NORTH 70 DEGREES 10 MINUTES 00 SECONDS EAST A DISTANCE OF 11.40 FEET;  
 THENCE NORTH 0 DEGREES 50 MINUTES 45 SECONDS WEST A DISTANCE OF 13.50 FEET TO A POINT IN THE NORTH LINE OF TRACT 994, SAID HARBOR VIEW VILLAGE, SAID POINT BEARS SOUTH 88 DEGREES 04 MINUTES 49 SECONDS EAST A DISTANCE OF 344.90 FEET FROM THE NORTHWEST CORNER OF SAID TRACT 994;  
 THENCE NORTH 88 DEGREES 04 MINUTES 49 SECONDS WEST, ALONG SAID NORTH LINE, A DISTANCE OF 344.90 FEET TO SAID NORTHWEST CORNER.

**EXHIBIT B**  
**Property Map**



INDEX MAP

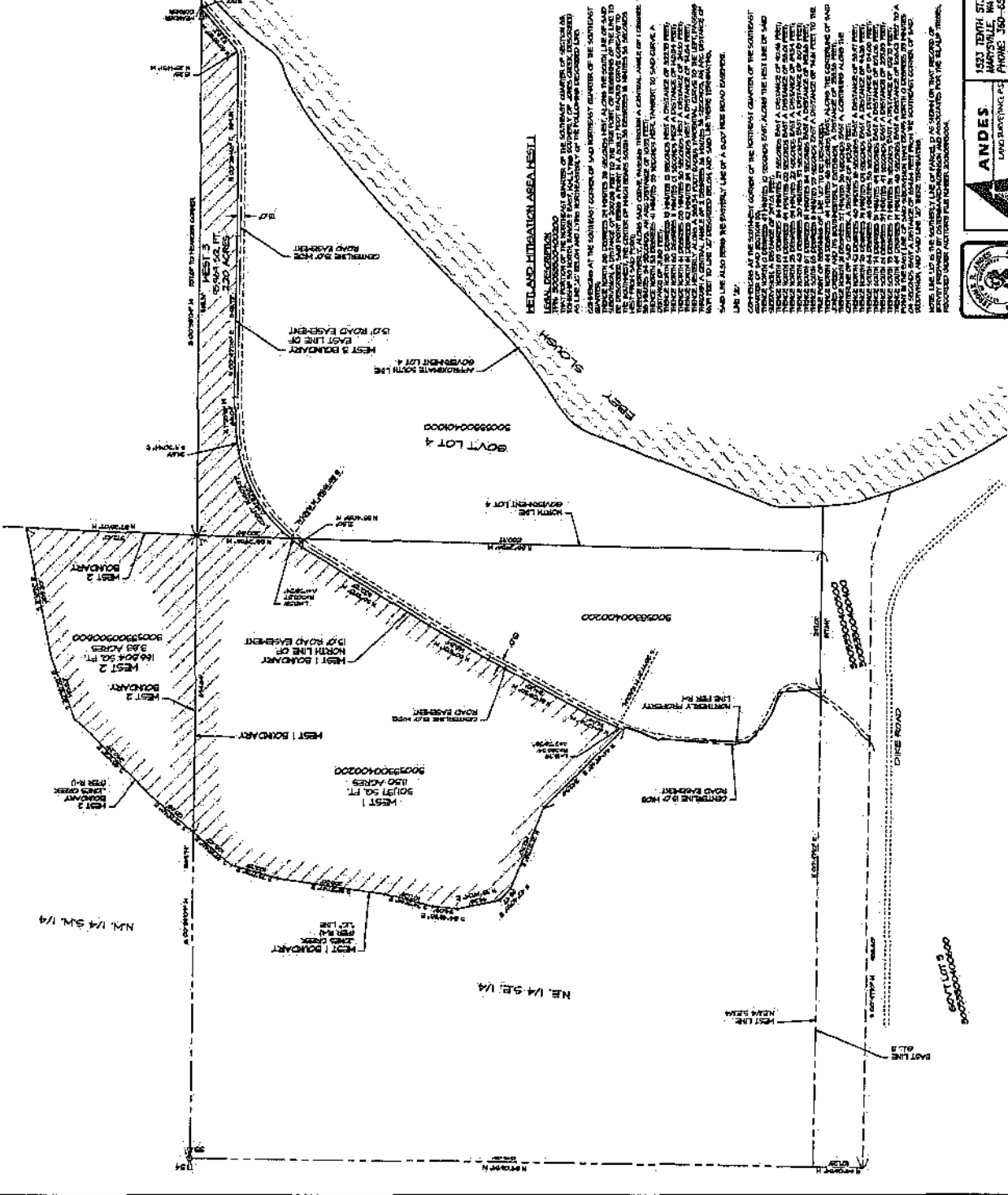


SECTION 29, 30, 31, T145N, R145E, M14



Scale 1" = 100'

MAP DRAWN BY: ANDRES REYNOLDS & ASSOCIATES, INC.



METLAND MITIGATION AREA MIST 1

LEGAL DESCRIPTION: THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 29, T145N, R145E, M14, SHOWN AS DASHED ON THE ATTACHED PLAT OF THE COUNTY OF MARYLAND, DISTRICT OF COLUMBIA.

LEGAL DESCRIPTION: THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 29, T145N, R145E, M14, SHOWN AS DASHED ON THE ATTACHED PLAT OF THE COUNTY OF MARYLAND, DISTRICT OF COLUMBIA.

LEGAL DESCRIPTION: THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 29, T145N, R145E, M14, SHOWN AS DASHED ON THE ATTACHED PLAT OF THE COUNTY OF MARYLAND, DISTRICT OF COLUMBIA.

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		<b>ANDES</b> LAND SURVEYING, INC. 1533 Tenth St. MARYSVILLE, VA 50270 PHONE 360-459-6639	MIST 1 OF 2 MIST 2 OF 2 MIST 3 OF 2 MIST 4 OF 2 MIST 5 OF 2
		<b>CITY OF MARYSVILLE</b> A PORTION OF SECTION 29, T145N, R145E, M14, DISTRICT OF COLUMBIA, MARYLAND, PLANNED UNDER STATE DEPARTMENT OF THE ENVIRONMENT, DISTRICT OF COLUMBIA.	94




# *Index #9*

## CITY OF MARYSVILLE AGENDA BILL

## EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 10/9/2017

<b>AGENDA ITEM:</b>	
USDA-APHIS-Wildlife Services Agreement, Work Plan/Financial Plan	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Matthew Eyer, Surface Water Administrator	
<b>DEPARTMENT:</b>	
Public Works	
<b>ATTACHMENTS:</b>	
Three copies of the USDA-APHIS Wildlife Services Work Plan/Financial Plan 2013 Agreement - Agreement No:14-73-53-6173-RA	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
40145040.541000	\$16,933.92
<b>SUMMARY:</b>	

The USDA-APHIS Wildlife Services Cooperative Services Agreement (Agreement No: 14-73-53-6173-RA) was signed and approved by the City in 2013. The Agreement is effective through September 30<sup>th</sup> 2018. This request is for the annual renewal of the Work Plan/Financial Plan between the USDA-APHIS and the City for assistance in providing wildlife management services for conflicts caused by beavers, coyotes and other nuisance wildlife. This assistance is in the form of educational information or direct control.

**RECOMMENDED ACTION:**

Staff recommends that Council authorize the Mayor to sign and execute the USDA-APHIS Wildlife Services, Work Plan/Financial Plan for the upcoming year.

## WORK PLAN/FINANCIAL PLAN

**Cooperator:** City of Marysville

**Contact:** Matt Eyer, 360-363-8144 meyer@marysvillewa.gov  
 Jim Ballew, 360-363-8402 jballew@marysvillewa.gov  
 Karen Latimer, Department Manager 360-363-8277  
 Officer Dave Vasconi, Marysville PD 425-754-8843

**Cooperative Service Agreement No.:** 18-73-53-6173-RA.

**WBS Code:** AP.RA.RX53.73.0178

**FMMI Shorthand Code:** 8XWSWR5353REIMBURRX53730178

**Location:** City of Marysville

**Date:** October 16, 2017 through September 30, 2018

In accordance with the Cooperative Service Agreement (14-73-53-6173-RA, 2013) between the City of Marysville and the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS), this Work Plan sets forth the objectives, activities, and budget of the wildlife control activities for the period of October 16, 2017 through September 30, 2018.

### **Program Objective/Goals**

APHIS-WS objective is to provide assistance to the City of Marysville, when they experience wildlife conflicts caused by beavers, coyotes and other nuisance wildlife. This assistance may be in the form of educational information or direct control. If direct control is necessary, the most effective and safe control tools and techniques will be utilized.

### **Plan of Action**

1. The objectives of this plan will be accomplished in the following manner:
2. APHIS-WS will assign a Wildlife Specialist on an intermittent basis up to 320 hours and will also provide the vehicle, field supplies, and equipment for the project.
3. APHIS-WS will conduct beaver control in areas of flooding, and monitor beaver activity in areas where beaver populations are reduced to prevent re-infestation.
4. APHIS-WS will conduct control of coyotes when coyotes are causing a human health and safety issue.
5. Damage control will be accomplished by the following methods:
  - a. Technical assistance to improve and expand non-lethal methods (i.e. exclusion, eliminate feeding, etc.)
  - b. Trapping
  - c. Shooting

6. Brook Zscheile, the APHIS-WS District Supervisor (360) 337-2778 in Poulsbo will supervise this project. This project will be monitored by Mike Linnell, the State Director in Olympia, (360) 753-9884.
7. APHIS-WS will cooperate with the Washington Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, county and local city governments, and other entities to ensure compliance with Federal, State, and local laws and regulations.
8. City of Marysville will be billed quarterly by APHIS-WS only for expenses shown in the Financial Plan and will not exceed the Agreement Total. Personnel Compensation is defined as salary for all hours worked, benefits, differentials, hazardous duty allowances, annual leave, sick leave and awards. The financial point of contact for this Work Plan/Financial Plan is Roberta Bushman, Administrative Officer, (360) 753-9884.

**FINANCIAL PLAN**  
 For the dispersement of funds from  
 City of Marysville  
 to  
 USDA APHIS Wildlife Services  
 for  
 Beaver Management  
 From 10/01/2017 to 09/30/2018

<b>Cost Element</b>		<b>Full Cost</b>
Personnel Compensation	\$	11,613.45
Vehicles	\$	1,300.00
Supplies and Materials	\$	250.00
Subtotal (Direct Charges)	\$	13,163.45
Pooled Job Costs	11.00%	\$ 1,447.98
Indirect Costs	16.15%	\$ 2,125.90
<b>Agreement Total</b>	<b>\$</b>	<b>16,737.32</b>

The distribution of the budget from this Financial Plan may vary as necessary to accomplish the purpose of this agreement, but may not exceed: \$16,737.32

Mailing Address:  
CITY OF MARYSVILLE  
1049 STATE AVE.  
MARYSVILLE, WA 98270

Billing Address:  
Same

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES

\_\_\_\_\_  
State Director, WA/AK

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director, Western Region

\_\_\_\_\_  
Date

Agreement No: 14-73-53-6173-RA  
 WBS Element: AP.RA.RX53.73.0178  
 Shorthand Code: 4XWSWR5353REIMBURRX53730178

**COOPERATIVE SERVICE AGREEMENT  
 REIMBURSABLE  
 between  
 CITY OF MARYSVILLE (COOPERATOR)  
 and  
 UNITED STATES DEPARTMENT OF AGRICULTURE  
 ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
 WILDLIFE SERVICES (WS)**

**ARTICLE 1 - PURPOSE**

The purpose of this Agreement is to conduct wildlife damage management (WDM) activities to control beavers residing in and around the city of Marysville in order to reduce human health and safety threats and property damage due to flooding.

**ARTICLE 2 - AUTHORITY**

APHIS WS has statutory authority under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-331, 7 U.S.C. 426c), for the Secretary of Agriculture to cooperate with States, individuals, public and private agencies, organizations, and institutions in the control of wild mammals and birds that are reservoirs for zoonotic diseases, or are injurious or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and public health and safety.

**ARTICLE 3 - MUTUAL RESPONSIBILITIES**

The Cooperator and WS agree:

- a. To confer and plan a WDM program that addresses the need for managing conflicts caused by beavers in Marysville, WA. Based on this consultation, WS will formulate annually, in writing, the program work plan and associated budget and present them to the Cooperator for approval.
- b. Each year The Cooperator and APHIS-WS must agree to and sign the annual Work and Financial Plans, which upon execution are incorporated into this Agreement by reference.
- c. When either of the Cooperating parties address the media or incorporate information into reports and/or publications, both Cooperating parties must agree, in writing, to have their identities disclosed when receiving due credit related to the activities covered by this agreement.
- d. That APHIS-WS has advised the Cooperator that other private sector service providers may be available to provide wildlife management services and notwithstanding these other options, Cooperator requests that APHIS-WS provide wildlife management services as stated under the terms of this Agreement.

Agreement No: 14-73-53-6173-RA  
 WBS Element: AP.RA.RX53.73.0178  
 Shorthand Code: 4XWSWR5353REIMBURRX53730178

#### ARTICLE 4 - COOPERATOR RESPONSIBILITIES

The Cooperator agrees:

- a. To designate Kari Chemault, Program Engineer, City of Marysville, 80 Columbia Avenue, WA, 98270, 360-363-8277, as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement;
- b. To reimburse APHIS-WS for costs, not to exceed the annually approved amount specified in the Work and Financial Plan. If costs are projected to exceed the amount reflected in the Financial Plan, the Work and Financial Plan shall be formally revised and signed by both parties before services resulting in additional costs are performed. The Cooperator agrees to pay all costs of service submitted via an invoice within 30 days of the date of the submitted invoice or invoices as submitted by APHIS-WS. Late payments are subject to interest, penalties, and administrative charges and costs as set forth under the Debt Collection Improvement Act of 1996. If the Cooperator is delinquent in paying the full amount of the due service costs submitted by APHIS-WS, and/or is delinquent in paying the due late payments, and/or is delinquent in paying the interest, penalties, and/or administrative costs on any delinquent due service costs, APHIS-WS will immediately cease to provide the respective service associated with the submitted service costs. APHIS-WS will not reinstate or provide the respective service until all due service costs, and/or due late payments, and/or due interest, penalty, and/or administrative costs are first paid in full.
- c. To provide a Tax Identification Number or Social Security Number in compliance with the Debt Collection Improvement Act of 1996.
- d. As a condition of this Agreement, The Cooperator ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.

#### ARTICLE 5 - WS RESPONSIBILITIES

WS agrees:

- a. To designate WS State Director, Roger Woodruff, 720 O'Leary Street NW, Olympia, WA 98502, (360) 753-9884 as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement;
- b. The performance of wildlife damage management actions by WS under this agreement is contingent upon a determination by WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable environmental statutes. WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance;
- c. To provide qualified personnel and other resources necessary to implement the approved WDM activities delineated in the Work and Financial Plan referenced in 3.a of this Agreement;
- d. To bill the Cooperator for costs incurred in performing WDM activities as authorized in the approved annual Work and Financial Plan as may be amended.

Agreement No: 14-73-53-6173-RA  
 WBS Element: AP.RA.RX53.73.0178  
 Shorthand Code: 4XWSWR5353REIMBURRX53730178

- e. To notify the Cooperator if costs are projected to exceed the amounts estimated and agreed upon in the Financial Plan. WS will cease providing goods or services until a revision to the Work and Financial Plan, as appropriate, have been agreed to and signed by both parties to this Agreement.
- f. Authorized auditing representatives of the Cooperator shall be accorded reasonable opportunity to inspect the accounts and records of WS pertaining to such claims for reimbursement to the extent permitted by Federal laws and regulations.

#### ARTICLE 6 – WS CONDITIONS

For costs borne by WS, this agreement is contingent upon the passage of the Agriculture, Rural Development, and Related Agencies Appropriation Act for the current fiscal year from which expenditures may be legally met and shall not obligate APHIS upon failure of Congress to so appropriate. This Agreement also may be reduced or terminated if Congress provides APHIS funds only for a finite period under a Continuing Resolution.

#### ARTICLE 7 – ASSURANCES

Nothing in this agreement shall prevent any other State, agency, organization or individual from entering into separate agreements with WS the Cooperator for the purpose of managing wildlife damage.

#### ARTICLE 8 – CONGRESSIONAL RESTRICTIONS

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this agreement or to any benefit to arise therefrom.

#### ARTICLE 9 – APPLICABLE REGULATIONS

All WDM activities will be conducted in accordance with applicable Federal, State, and local laws and regulations.

This agreement is not a procurement contract (31 U.S.C. 6303), nor is it considered a grant (31 U.S.C. 6304). In this agreement, APHIS provides goods or services on a cost recovery basis to nonfederal recipients.

#### ARTICLE 10 – LIABILITY

APHIS assumes no liability for any actions or activities conducted under this agreement except to the extent the recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 USC 1346(b), 2401(b), 2671-2680).



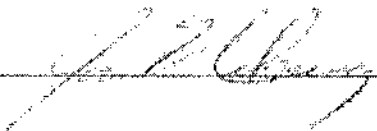
Agreement No: 14-73-53-6173-RA  
WBS Element: AP.RA.RXS3.73.0178  
Shorthand Code: 4XWSWR5353REJMBURRXS3730178

ARTICLE 11 - AGREEMENT EFFECTIVE DATE

This Agreement shall become effective upon the date of final signature and shall continue through September 30, 2018. This agreement may be amended at any time by mutual agreement of the parties in writing. It may be terminated by either party upon 60 days written notice to the other party. Further, in the event the Cooperator does not for any reason reimburse expended funds, WS is relieved of the obligation to continue any operations under this agreement.

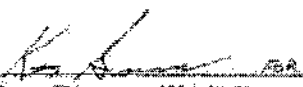
AUTHORIZATION:

CITY OF MARYSVILLE  
MARYSVILLE, WA  
Tax Identification Number: 91-6001459


  
\_\_\_\_\_

10/29/17  
Date

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES  
Tax Identification Number: 41-0696271

  
\_\_\_\_\_ State Director, WA/AK

29 AUG 2017  
Date

  
\_\_\_\_\_ Director, Western Region

11/8/13  
Date

## WORK PLAN/FINANCIAL PLAN

**Cooperator:** City of Marysville

**Contact:** Jim Ballew, 360-363-8402

Kari Chennault, Program Engineer 360-363-8277

Officer Dave Vasconi, Marysville PD 425-754-8843

**Cooperative Service Agreement No.:** 14-73-53-6173-RA

**WBS Element:** AP.RA.RX53.73.0178

**FMMI Shorthand Code:** 4XWSWR5353REIMBURRX53730178

**Location:** City of Marysville

**Date:** October 1, 2013 through September 30, 2014

In accordance with the Cooperative Service Agreement between the City of Marysville and the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS), this Work Plan sets forth the objectives, activities, and budget of the wildlife control activities for the period of October 1, 2013 through September 30, 2014.

### Program Objective/Goals

APHIS-WS objective is to provide assistance to the City of Marysville, when they experience wildlife conflicts caused by beavers, coyotes and other nuisance wildlife. This assistance may be in the form of educational information or direct control. If direct control is necessary, the most effective and safe control tools and techniques will be utilized.

### Plan of Action

The objectives of the wildlife control activities will be accomplished in the following manner:

1. WS will assign a Wildlife Specialists on an intermittent basis up to 280 hours and will also provide the vehicle, field supplies, and equipment for the project.
2. WS will conduct aggressive control in areas of flooding with continued maintenance and monitoring in areas where beaver populations are reduced to prevent re-infestation.
3. WS will conduct aggressive control of coyotes when coyotes are causing a human health and safety issue.
4. Damage control will be accomplished by the following methods:
  - Technical assistance to improve and expand non-lethal methods (i.e. exclusion, eliminate feeding, etc.)
  - Trapping
  - Shooting

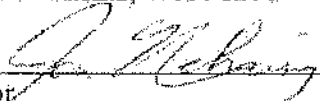
5. Matt Cleland in the WS District Office (360) 337-2778 in Poulsbo will supervise this project. This project will be monitored by Roger Woodruff, State Director, Olympia, (360) 753-9884.
6. WS will cooperate with the Washington Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, county and local city governments, and other entities to ensure compliance with Federal, State, and local laws and regulations.
7. City of Marysville will be billed quarterly by WS only for the services rendered, not to exceed \$15,000. Salaries and benefits are defined as compensation for all hours worked, benefits, differentials, hazardous duty allowances, annual leave, sick leave and awards. You will only be billed for expenses incurred. The financial point of contact for this Work Plan/Financial Plan is Roberta Bushman, Administrative Officer, (360) 753-9884.

**BUDGET**

Listed below are the estimated costs of the wildlife control program outlined above:

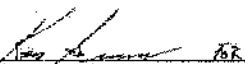
Salary & Benefits	\$ 10,850
Vehicle Fuel	450
Supplies	<u>497</u>
Subtotal	11,797
Overhead	1,905
Pooled Equip Cost	<u>1,298</u>
TOTAL	<u>\$ 15,000</u>

CITY OF MARYSVILLE  
 6915 ARMAR RD  
 MARYSVILLE, WA 98270

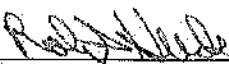
  
 \_\_\_\_\_  
 Mayor

10/21/13  
 \_\_\_\_\_  
 Date

UNITED STATES DEPARTMENT OF AGRICULTURE  
 ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
 WILDLIFE SERVICES

  
 \_\_\_\_\_  
 State Director, WA/AK

01 AUG 2013  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Director, Western Region

11/8/13  
 \_\_\_\_\_  
 Date

**DOCUMENT TRACKING PAGE**  
**DO NOT REMOVE FROM THIS DOCUMENT**

DATE: 09/04/2013

COOPERATOR: Jim Ballew

City of Marysville  
6915 Armar Road  
Marysville, WA 98270

For correct and timely processing of this document, please ensure the following:

1. Sign on the **COOPERATOR'S SIGNATURE** line of the Work Plan/Financial Plan and/or Agreement and return the all **original documents** to our office at the following address:

**USDA-APHIS-WILDLIFE SERVICES**  
**720 O'Leary Street NW**  
**Olympia, WA 98502**  
Phone: 360/753-9884      FAX 360/753-9466

2. If you would like to make a copy for your records please do so.
3. We will mail an original back to you after it has been signed by our Regional Director.
4. Please call Roberta Bushman if you have any questions.

Additional comments by WS office:

Additional comments or instructions by Cooperator:

---

**WS Wildlife Services COPY**

Protecting People | Protecting Agriculture | Protecting Wildlife

Agreement No: 14-73-53-6173-RA  
 WBS Element: AP.RA.RX53.73.0178  
 Shorthand Code: 4XWSWR5353REIMBURRX33730178

**COOPERATIVE SERVICE AGREEMENT  
 REIMBURSABLE  
 between  
 CITY OF MARYSVILLE (COOPERATOR)  
 and  
 UNITED STATES DEPARTMENT OF AGRICULTURE  
 ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
 WILDLIFE SERVICES (WS)**

**ARTICLE 1 - PURPOSE**

The purpose of this Agreement is to conduct wildlife damage management (WDM) activities to control beavers residing in and around the city of Marysville in order to reduce human health and safety threats and property damage due to flooding.

**ARTICLE 2 - AUTHORITY**

APHIS WS has statutory authority under the Act of March 2, 1931 (46 Stat. 1463; 7 U.S.C.426-426b) as amended, and the Act of December 22, 1987 (101 Stat. 1329-331, 7 U.S.C. 426c), for the Secretary of Agriculture to cooperate with States, individuals, public and private agencies, organizations, and institutions in the control of wild mammals and birds that are reservoirs for zoonotic diseases, or are injurious or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and public health and safety.

**ARTICLE 3 - MUTUAL RESPONSIBILITIES**

The Cooperator and WS agree:

- a. To confer and plan a WDM program that addresses the need for managing conflicts caused by beavers in Marysville, WA. Based on this consultation, WS will formulate annually, in writing, the program work plan and associated budget and present them to the Cooperator for approval.
- b. Each year The Cooperator and APHIS-WS must agree to and sign the annual Work and Financial Plans, which upon execution are incorporated into this Agreement by reference.
- c. When either of the Cooperating parties address the media or incorporate information into reports and/or publications, both Cooperating parties must agree, in writing, to have their identities disclosed when receiving due credit related to the activities covered by this agreement.
- d. That APHIS-WS has advised the Cooperator that other private sector service providers may be available to provide wildlife management services and notwithstanding these other options, Cooperator requests that APHIS-WS provide wildlife management services as stated under the terms of this Agreement.

Agreement No: 14-73-53-6173-RA  
 WBS Element: AP.RA.RX53.73.0178  
 Shorthand Code: 4XWSWR5353REIMBURRX53730178

#### ARTICLE 4 - COOPERATOR RESPONSIBILITIES

The Cooperator agrees:

- a. To designate Kari Chennault, Program Engineer, City of Marysville, 80 Columbia Avenue, WA, 98270, 360-363-8277, as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement;
- b. To reimburse APHIS-WS for costs, not to exceed the annually approved amount specified in the Work and Financial Plan. If costs are projected to exceed the amount reflected in the Financial Plan, the Work and Financial Plan shall be formally revised and signed by both parties before services resulting in additional costs are performed. The Cooperator agrees to pay all costs of service submitted via an invoice within 30 days of the date of the submitted invoice or invoices as submitted by APHIS-WS. Late payments are subject to interest, penalties, and administrative charges and costs as set forth under the Debt Collection Improvement Act of 1996. If the Cooperator is delinquent in paying the full amount of the due service costs submitted by APHIS-WS, and/or is delinquent in paying the due late payments, and/or is delinquent in paying the interest, penalties, and/or administrative costs on any delinquent due service costs, APHIS-WS will immediately cease to provide the respective service associated with the submitted service costs. APHIS-WS will not reinstate or provide the respective service until all due service costs, and/or due late payments, and/or due interest, penalty, and/or administrative costs are first paid in full.
- c. To provide a Tax Identification Number or Social Security Number in compliance with the Debt Collection Improvement Act of 1996.
- d. As a condition of this Agreement, The Cooperator ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.

#### ARTICLE 5 - WS RESPONSIBILITIES

WS agrees:

- a. To designate WS State Director, Roger Woodruff, 720 O'Leary Street NW, Olympia, WA 98502, (360) 753-9884 as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this Agreement;
- b. The performance of wildlife damage management actions by WS under this agreement is contingent upon a determination by WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable environmental statutes. WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance;
- c. To provide qualified personnel and other resources necessary to implement the approved WDM activities delineated in the Work and Financial Plan referenced in 3.a of this Agreement.
- d. To bill the Cooperator for costs incurred in performing WDM activities as authorized in the approved annual Work and Financial Plan as may be amended.

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Agreement No: 14-73-53-6173-RA  
 WBS Element: AP.RA.RX53.73.0178  
 Shorthand Code: 4XWSWR5353REIMBURRX53730178

- e. To notify the Cooperator if costs are projected to exceed the amounts estimated and agreed upon in the Financial Plan. WS will cease providing goods or services until a revision to the Work and Financial Plan, as appropriate, have been agreed to and signed by both parties to this Agreement.
- f. Authorized auditing representatives of the Cooperator shall be accorded reasonable opportunity to inspect the accounts and records of WS pertaining to such claims for reimbursement to the extent permitted by Federal laws and regulations.

#### **ARTICLE 6 – WS CONDITIONS**

For costs borne by WS, this agreement is contingent upon the passage of the Agriculture, Rural Development, and Related Agencies Appropriation Act for the current fiscal year from which expenditures may be legally met and shall not obligate APHIS upon failure of Congress to so appropriate. This Agreement also may be reduced or terminated if Congress provides APHIS funds only for a finite period under a Continuing Resolution.

#### **ARTICLE 7 – ASSURANCES**

Nothing in this agreement shall prevent any other State, agency, organization or individual from entering into separate agreements with WS the Cooperator for the purpose of managing wildlife damage.

#### **ARTICLE 8 – CONGRESSIONAL RESTRICTIONS**

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this agreement or to any benefit to arise therefrom.

#### **ARTICLE 9 – APPLICABLE REGULATIONS**

All WDM activities will be conducted in accordance with applicable Federal, State, and local laws and regulations.

This agreement is not a procurement contract (31 U.S.C. 6303), nor is it considered a grant (31 U.S.C. 6304). In this agreement, APHIS provides goods or services on a cost recovery basis to nonfederal recipients.

#### **ARTICLE 10 – LIABILITY**

APHIS assumes no liability for any actions or activities conducted under this agreement except to the extent the recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 USC 1346(b), 2401(b), 2671-2680).

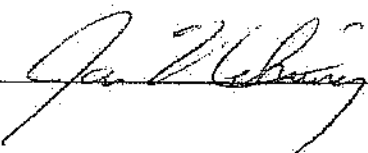
Agreement No: 14-73-53-6173-RA  
WBS Element: AP.RA.RX53.73.0178  
Shorthand Code: 4XWSWR5353REIMBURRX53730178

**ARTICLE 11 - AGREEMENT EFFECTIVE DATE**

This Agreement shall become effective upon the date of final signature and shall continue through September 30, 2019. This agreement may be amended at any time by mutual agreement of the parties in writing. It may be terminated by either party upon 60 days written notice to the other party. Further, in the event the Cooperator does not for any reason reimburse expended funds, WS is relieved of the obligation to continue any operations under this agreement.


**AUTHORIZATION:**

CITY OF MARYSVILLE  
MARYSVILLE, WA  
Tax Identification Number: 91-6001459

  
\_\_\_\_\_

10/29/13  
Date

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES  
Tax Identification Number: 41-0696271

  
\_\_\_\_\_

04 AUG 2013  
Date

\_\_\_\_\_  
Director, Western Region

\_\_\_\_\_  
Date



## WORK PLAN/FINANCIAL PLAN

**Cooperator:** City of Marysville

**Contact:** Jim Balfew, 360-363-8402

Kari Chennault, Program Engineer 360-363-8277

Officer Dave Vasconi, Marysville PD 425-754-8843

**Cooperative Service Agreement No.:** 14-73-53-6173-RA

**WBS Element:** AP.RA.RX53.73.0178

**FMMI Shorthand Code:** 4XWSWR5353REIMBURRX53730178

**Location:** City of Marysville

**Date:** October 1, 2013 through September 30, 2014

In accordance with the Cooperative Service Agreement between the City of Marysville and the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS), this Work Plan sets forth the objectives, activities, and budget of the wildlife control activities for the period of October 1, 2013 through September 30, 2014.

### Program Objective/Goals

APHIS-WS objective is to provide assistance to the City of Marysville, when they experience wildlife conflicts caused by beavers, coyotes and other nuisance wildlife. This assistance may be in the form of educational information or direct control. If direct control is necessary, the most effective and safe control tools and techniques will be utilized.

### Plan of Action

The objectives of the wildlife control activities will be accomplished in the following manner:

1. WS will assign a Wildlife Specialists on an intermittent basis up to 280 hours and will also provide the vehicle, field supplies, and equipment for the project.
2. WS will conduct aggressive control in areas of flooding with continued maintenance and monitoring in areas where beaver populations are reduced to prevent re-infestation.
3. WS will conduct aggressive control of coyotes when coyotes are causing a human health and safety issue.
4. Damage control will be accomplished by the following methods:
  - Technical assistance to improve and expand non-lethal methods (i.e. exclusion, eliminate feeding, etc.)
  - Trapping
  - Shooting

5. Matt Cleland in the WS District Office (360) 337-2778 in Poulsbo will supervise this project. This project will be monitored by Roger Woodruff, State Director, Olympia, (360) 753-9884.
6. WS will cooperate with the Washington Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, county and local city governments, and other entities to ensure compliance with Federal, State, and local laws and regulations.
7. City of Marysville will be billed quarterly by WS only for the services rendered, not to exceed \$15,000. Salaries and benefits are defined as compensation for all hours worked, benefits, differentials, hazardous duty allowances, annual leave, sick leave and awards. You will only be billed for expenses incurred. The financial point of contact for this Work Plan/Financial Plan is Roberta Bushman, Administrative Officer, (360) 753-9884.

### BUDGET

Listed below are the estimated costs of the wildlife control program outlined above:

Salary & Benefits	\$ 10,850
Vehicle Fuel	450
Supplies	497
Subtotal	11,797
Overhead	1,905
Pooled Equip Cost	<u>1,298</u>
TOTAL	<u>\$ 15,000</u>

CITY OF MARYSVILLE  
6915 ARMAR RD  
MARYSVILLE, WA 98270

\_\_\_\_\_  
Mayor

10/29/13  
Date

UNITED STATES DEPARTMENT OF AGRICULTURE  
ANIMAL AND PLANT HEALTH INSPECTION SERVICE  
WILDLIFE SERVICES

\_\_\_\_\_  
State Director, WA/AK

04 AUG 2013  
Date

\_\_\_\_\_  
Director, Western Region

\_\_\_\_\_  
Date

# *Index #11*

**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: October 9, 2017**

<b>AGENDA ITEM:</b> Renewal of Jail Services Contract with Yakima County	<b>AGENDA SECTION:</b>	
<b>PREPARED BY:</b> Wendy Wade, Commander	<b>AGENDA NUMBER:</b>	
	<b>APPROVED BY:</b>	
	<b>MAYOR</b>	<b>CAO</b>
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>	

Marysville Police Department requests Council approve the renewal of the Jail Services Contract with Yakima County Jail to house sentenced prisoners.

Yakima County Jail provides transportation to and from Marysville Jail to Yakima County Jail.

Housing fees have increased 4% from \$57.20 to \$59.85 a day per prisoner. Normal medical expenses are included in the housing fee.

City Attorney, Jon Walker, reviewed the language contained in the contract and previously approved it as to form.

**RECOMMENDED ACTION:**

Staff recommends that Council authorize the Mayor to sign the 2018 Agreement for the Yakima County agreement for jail services.

**COUNCIL ACTION:**



## YAKIMA COUNTY DEPARTMENT OF CORRECTIONS

111 North Front Street Yakima, Washington 98901 (509) 574-1700

September 14<sup>th</sup>, 2017

Chief Rick Smith  
Marysville Police Department  
1635 Grove Street  
Marysville, WA 98270

**RE: 2018 Housing Agreement Renewal Notification**

Dear Chief Smith:

This letter will serve as your official written notification of the inmate housing rate increase for the upcoming year. The increase is approximately 4% and is primarily due to an increase in our overall department services. Yakima County DOC will see an annual increase of \$680,000 in Medical Services, \$125,000 in Mental Health services, and a 4% wage increase over the next two years (2018-2019). This will also allow us to align both the Local & Non-Local agreements under the same sliding rate scale.

I have inserted language that provides a continuous term instead of annual renewals, except when there is a rate increase and/or language change. The new language reads as follows: ***This agreement will renew annually for up to 5 years (December 31, 2022) unless there is written notification from one party to the other that they wish to terminate the contract at the end of the current calendar year. Such notification will be sent to the receiving party no later than October 1<sup>st</sup> of the current year.***

Enclosed you will find (2) originals agreements. Please have them both signed and forwarded back to my attention at your earliest convenience. Once our Board of County Commissioners has signed the agreements, a fully executed original will be returned to you.

I have chosen to send this notice out earlier this year in an effort to allow for any legal review and/or approval that may be required prior to signing.

Please do not hesitate to contact me if you have any questions. I can be reached at 574-1758, or you can contact Sandra Bess at 574-1704.

Looking forward to another successful year of working together!

Respectfully,

Ed W. Campbell, Director  
EC:sb

C: City Notebook

Service, Pride, Integrity

## AGREEMENT FOR INMATE HOUSING 2018

THIS INTERLOCAL AGREEMENT FOR INMATE HOUSING (hereinafter "Agreement") is made and entered into by and between **Yakima County** (hereinafter the "County") and **the City of Marysville** (hereinafter the "City").

WHEREAS, RCW Chapters 39.34 and RCW 70.48 authorize the City and the County to enter into a contract for inmate housing, and

WHEREAS, the City desires to transfer custody of certain of its inmates to the County to be housed in the County's corrections facilities during those inmates' confinement, and to compensate the County for housing such inmates, and

WHEREAS, the County desires to house inmates who would be otherwise in the City's custody on the terms agreed herein.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises contained herein, the parties hereto mutually agree as follows:

**1. Purpose.** The purpose and intent of this Agreement is to establish the terms under which the County will house City inmates.

**2. Definitions.**

**Business day** means Monday through Friday excluding Yakima County standard holidays.

**Committing Court** means the court that issued the order or sentence that established the City's custody of a City Inmate.

**Detainer** – A legal order authorizing or commanding another agency a right to take custody of a person.

**City Inmate** means a person subject to City custody who is transferred to County custody under this Agreement

**3. General Provisions.** The County shall accept City Inmates according to the terms of this Agreement and shall provide housing, care, and custody of those City Inmates in the same manner as it provides housing, care and custody to its own inmates.

The County shall manage, maintain, and operate its corrections facilities in compliance with all applicable federal, state, and local laws and regulations.

**4. Right to Refuse or Return Inmate.** To the greatest extent permitted by law, the County shall have the right to refuse to accept a City Inmate or to return a City Inmate to the City, if the Inmate has a current illness or injury that is listed in **Attachment A - Medical Acceptability**. The County shall provide notice to the City at least one business day prior to transport.

**5. Inmate Transport. County Transported:** The County shall transport Inmates to and from the County's corrections facilities except when weather or other conditions beyond the County's control prevent transport. **Inmate transport dates will be determined by the amount of inmates the City has housed with the County.**

The County will pick up and drop off Inmates at a mutually agreed upon destination. In the event the City wishes the County to pick up and/or drop off a City Inmate at another detention or correction facility, the City shall notify the County of the location of the Inmate for pick up and/or drop off.

The City shall provide a written inmate transport list to the County the business day prior to transport. At the time of scheduling transport if possible, but no later than transport pickup, the City shall provide to the County the warrant or court order detaining or committing the Inmate, as well as any order that specifies the Inmate's next court date or sentence to confinement.

The City shall provide a complete copy of each Inmate's records in its possession to the County prior to transferring custody of the Inmate to the County. The County will not assume custody of any inmate without a warrant or court order that commits the Inmate to confinement.

**City Transported:** The City will provide the County a written transport list to the County the business day prior to delivery. At the time of delivery, the City shall provide the County the warrant or court order detaining or committing the inmate as well as any order that specifies the Inmate's next court date or sentence to confinement.

The City shall provide a complete copy of each Inmate's records in its possession to the County prior to transferring custody of the Inmate to the County. The County will not assume custody of any inmate without a warrant or court order that commits the Inmate to confinement.

**6. Inmate Records.** The City shall provide all medical records in its possession to the County's transport officers prior to the Inmate's departure from the City's detention or designated detention facility. In the event the Inmate is transported by the City, the City shall provide all medical records in its possession to the County's booking officer. In the event additional information is requested by the County regarding a particular Inmate, the County and City will mutually cooperate to provide the additional information needed.

**7. Inmate Property.** The County shall accept and transport Inmate property in accordance with **Attachment B – Property**, and shall be responsible only for inmate property actually delivered into County possession. The County shall hold and handle each Inmate's personal property in the same manner it holds and handles property of other County inmates. In the event a City Inmate is being transported from a City designated detention or correction facility, it will be the responsibility of the City to dispose of the Inmate's property not delivered and accepted into County possession. When returning Inmates to the City, the County shall transport Inmate property according to the provisions of Attachment B – Property, and it shall be the responsibility of the County to dispose of any of the Inmate's property not transported with the Inmate.

**8. Booking.** Inmates shall be booked pursuant to the County's booking policies and procedures. Inmates transported by the City that are not acceptable at booking, will be the responsibility of the City to transport back to City.

Pursuant to RCW 70.48.130, and as part of the booking procedure, the Department of Corrections shall obtain general information concerning the Inmate's ability to pay for medical care, including insurance or other medical benefits or resources to which a City Inmate is entitled. The information is to be used for third party billing.

The County and City will attempt to develop a process at City detention facilities for pre-booking Inmates who are being transferred to the custody of the County.

**9. Classification.** Inmates shall be classified pursuant to the County's classification policies and procedures, and within the sole discretion and judgment of the County. The City shall provide information identified in **Attachment C – Classification**, of this Agreement.

**10. Housing.** Inmates shall be assigned to housing pursuant to the County's policies and procedures, and within the sole discretion and judgment of the County. Provided however, that generally, if a City Inmate's classification qualifies him/her to be housed in the Yakima County Corrections Center, and there is a bed available at the Yakima County Corrections Center, the Inmate shall be housed in the Yakima County Corrections Center. Exceptions to this general provision include circumstances such as: 1) No women are housed at the Yakima County Corrections Center; 2) Inmates assigned to certain work crews must be housed in the Main Jail or Annex; 3) Certain programs are available only to Inmates housed in the Main Jail or Annex; 4) Inmates who will be housed for less than one week will usually be housed in the Main Jail or Annex.

**11. Inmate Work Programs.** The County may assign Inmates to work programs such as inside and outside work crews, kitchen and facility duties, and other appropriate duties.

**12. Health Care.** The County shall provide in-facility medical care commonly associated with county corrections operations as guided by American Correctional Association or National Commission on Correctional Health Care standards.

Inmates shall be responsible for co-payment for health services according to County policy. The City shall not be responsible to the County for Inmate co-payments. No Inmate shall be denied necessary health care because of an inability to pay for health services.

The County shall notify the City's designee(s) via e-mail or fax if a City Inmate requires medical or dental treatment at an outside medical or health care facility. The City shall be responsible to promptly notify the County of any changes in its designee(s).

The City shall pay for all medical, mental health, dental or any other medical services that are required to care for the City's Inmates outside YCDOC facilities. Except, the County shall bear the expense of any such medical care necessitated by improper conduct of the County, or of its officers or agents.

The County shall notify the City as soon as reasonably possible before the Inmate receives medical and/or dental treatment outside of YCDOC facilities. The City acknowledges that such notice may not be reasonably possible prior to emergency care. Lack of prior notice shall not excuse the City from financial responsibility for related medical expenses, and shall not be a basis for imposing financial responsibility for related medical expenses on the County.

Outside medical expenses for Inmates housed for more than one jurisdiction shall be divided equally among those jurisdictions.

**13. Inmate Discipline.** The County shall discipline Inmates according to the same policies and procedures under which other County inmates are disciplined. However, nothing contained herein shall be construed to authorize the imposition of a type of discipline that would not be imposed on a comparable County inmate, up to and including the removal of earned early release credits as approved by the City.

**14. Removal from County Facilities.** Except for work programs or health care, and during emergencies, Inmates shall not be removed from County facilities without written authorization from the City or by the order of any court having jurisdiction. Other jurisdictions



may "borrow" a City Inmate only according to the provisions of **Attachment D – Borrowing**. In the event of the Inmate's emergency removal, the County shall notify the City by email or fax as soon as reasonably possible. No early release or alternative to incarceration, including furloughs, home detention, or work release shall be granted to any Inmate without written authorization by the committing court.

**15. Visitation.** The County shall provide scheduled visitation for attorneys, spouses, family and friends of Inmates. Such visitation may be accomplished as provided in Section 24 of this Agreement.

**16. Inmate-Attorney Communication.** Confidential telephones or visitation rooms shall be available to inmates to communicate with their attorneys.

**17. Inmate Accounts.** The County shall establish and maintain an account for each Inmate. The County shall ensure family members and others have a reasonable process to add funds to a City Inmate's account.

Upon returning custody of a City Inmate to the City, the County shall transfer the balance of that Inmate's account that is not subject to charges, to the Inmate or to the City in the form of a check or a debit card in the name of the Inmate.

In the event the County contracts with a company/business that furnishes technology for wireless inmate account crediting (such as Keefee or JPAY) the City may allow the County (or County's contracted representative) to install the equipment necessary for use of the system. The City shall not be financially responsible for any aspect of the system, including but not limited to installation or maintenance costs. The City shall not receive any compensation or profits for such a system.

**18. Detainers.** Inmates in a "Detainer" status shall be handled according to **Attachment E – Detainers**.

**19. Releases.** The City shall be responsible for computing and tracking all sentence time calculations, good time, court dates and release dates. Inmates will be released in accordance with **Attachment F – Inmate Release**.

The County shall not transfer custody of a City Inmate housed pursuant to this Agreement to any party other than the City, except as provided in this Agreement or as directed by the City.

**20. Escape.** If a City Inmate escapes County custody, the County shall notify the City as soon as reasonably possible. The County shall use all reasonable efforts to pursue and regain custody of escaped City Inmates, and shall assume all costs connected with the recapture of the City Inmate.

**21. Death.** If a City Inmate dies in County custody, the County shall notify the City as soon as reasonably possible. The Yakima County Coroner shall assume custody of the City Inmate's body. Unless another agency becomes responsible for investigation, YCDOC shall investigate and shall provide the City with a report of its investigation. The City may participate in the investigation. If another agency becomes responsible for investigation, YCDOC shall liaison or otherwise facilitate the City's communication with and receipt of reports from the other agency.

The City shall provide the County with written instructions regarding the disposition of the City Inmate's body. The City shall pay for all reasonable expenses for the preparation and shipment of the body. The City may request in writing that the County arrange for burial and all matters related or incidental thereto and the City shall be responsible for all costs associate with this

request. Except, the County shall bear such expenses necessitated by improper conduct of County, or its officers or agents.

**22. Reporting Requirements.** Ordinarily on business days, the County will deliver the following reports to the JAG, which will disseminate them to the City:

Here Now Report - a report detailing City Inmates in YCDOC custody.

Housing Report - a report detailing which city inmates are housed at the Yakima County Corrections Center.

Custody Report - a report of total inmate populations confined at all YCDOC facilities. It includes current and historical safety and population data.

Special Housing Report - Identifies city inmates who are in special housing assignments.

**23. City's Right of Inspection.** The City shall have the right, upon reasonable advance notice, to inspect County correction facilities where City Inmates are housed at reasonable times. During such inspections, the City may interview its Inmates and review its Inmates' records. The City shall have no right to interview inmates housed for other jurisdictions or to review their medical records, unless it is properly authorized to do so by the inmate or the other jurisdiction.

**24. Technology.** The County and City may each permit the other continuous access to its computer database regarding all City Inmates housed by the County. This continuous access feature may be accomplished through a computer link between a computer(s) designated by the City and appropriate computer(s) of the County.

By separate mutual agreement, the County and City may provide video conference capabilities for personal visiting, professional visiting, pre-trial conferences, arraignments and other court and conferencing needs.

**Bed Rate.** In consideration of Yakima County's commitment to house City Inmates, the City shall pay the County based on the Monthly Average Daily Population (MADP) sliding scale:

<i>Monthly Average Daily Population (MADP)</i>	<i>Daily Rate Per Inmate</i>
151 - above	\$58.85
126-150	\$54.85
101-125	\$55.85
76-100	\$56.85
51-75	\$57.85
26-50	\$58.85
0-25	\$59.85

The Bed Rate includes all in-facility medical, dental (if available), and mental health services. In the event an inmate requires out of facility medical, dental or mental health services, the City shall be responsible for the cost of the services.

The County shall not charge a booking fee in connection with housing the City's Inmates.

The City may purchase additional beds, as available, at the then-existing bed rate; however, the County shall have the right to refuse to accept custody of or house inmates in excess of the City's minimum bed commitment.

The Daily Fee for inmates housed for more than one jurisdiction shall be divided equally among those jurisdictions.

This daily rate is established for 2018. Yakima County reserves the right to increase the daily rate with the understanding that they will provide the City of Marysville ninety (90) days written notification prior to said increase.

**25. Billing and Payment.** The County shall provide the City with monthly statements itemizing the name of each City Inmate, the number of days of housing, including the date and time booked into the County and date and time released from the County and itemization of any additional charges including a description of the service provided, date provided and reason for service.

The County shall provide said statement for each month on or about the 10<sup>th</sup> day of the following month. Payment shall be due to the County within (30) days from the billing date. The County may bill the City electronically. Payments not received by the 30<sup>th</sup> day shall bear interest at the rate of 1% per month until payment is received.

The Daily Fee for City Inmates housed for more than one jurisdiction shall be divided equally among those jurisdictions.

**26. Duration of Agreement.** This agreement will renew annually for up to five (5) years (December 31, 2022) unless there is written notification from one party to the other that they wish to terminate the contract at the end of the current calendar year. Such notification will be sent to the receiving party no later than October 1<sup>st</sup> of the current year.

**27. Independent Contractor.** In providing services under this Agreement, the County is an independent contractor and neither it nor its officers, nor its agents nor its employees are employees of the City for any purpose, including responsibility for any federal or state tax, industrial insurance, or Social Security liability. Neither shall the provision of services under this Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of the City under any applicable law, rule or regulation. Nothing in this Agreement is intended to create an interest in or give a benefit to third persons not signing as a party to this Agreement.

**28. Hold Harmless, Defense, and Indemnification.** The County shall hold harmless, defend, and indemnify the City, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, injury, or death of any City Inmate, or loss or damage to City Inmate property while in County custody) that result from or arise out of the acts or omissions of County, its elected officials, officers, employees, and agents in connection with or

incidental to the performance or non-performance of the County's services, duties, and obligations under this Agreement.

The City shall hold harmless, defend, and indemnify the County, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, injury, or death of any City Inmate, or loss or damage to City Inmate property while in County custody) that result from or arise out of the acts or omissions of the City, its elected officials, officers, employees, and agents in connection with or incidental to the performance or non-performance of the City's services, duties, and obligations under this Agreement.

In the event the acts or omissions of the officials, officers, agents, and/or employees of both the City and the County in connection with or incidental to the performance or non-performance of the City's and or County's services, duties, and obligations under this Agreement are the subject of any liability claims by a third party, the City and County shall each be liable for its proportionate share of fault in any resulting suits, actions, claims, liability, damages, judgments, costs and expenses and for their own attorney's fees.

Nothing contained in this Section or this Agreement shall be construed to create a right in any third party to indemnification or defense.

The County and City hereby waive, as to each other only, their immunity from suit under industrial insurance, Title 51 RCW. This waiver of immunity was mutually negotiated by the parties hereto.

The provisions of this section shall survive any termination or expiration of this Agreement.

**29. Insurance.** The County and City shall provide each other with evidence of insurance coverage, in the form of a certificate or other competent evidence from an insurance provider, insurance pool, or of self-insurance sufficient to satisfy the obligations set forth in this Agreement.

The County and City shall each maintain throughout the term of this Agreement coverage in minimum liability limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate for its liability exposures, including comprehensive general liability, errors and omissions, auto liability and police professional liability. The insurance policy shall provide coverage on an occurrence basis.

**30. Termination.**

A. **Mutual Agreement:** This Agreement may be terminated by mutual written consent between the County and City with ninety (90) days written notice to the other party and to the State Office of Financial Management as required by RCW 70.48.090 stating the grounds for said termination and specifying plans for accommodating the affected City Inmates.

B. **Imperiling Conditions:** The City shall have the right to terminate this Agreement where: 1) conditions and/or circumstances at Yakima's facilities present an imminent risk of serious injury or death to the City's Inmates [Imperiling Conditions]; 2) the City has sent County written notice by certified mail, return receipt requested describing with reasonable specificity the Imperiling Conditions; and 3) the County has failed to cure the Imperiling Conditions within a reasonable period of time, which, unless the parties agree in writing to a longer period, shall be no more than 30 days after the County receives the City's notice. Termination under this

provision shall be effective if and when: 1) after at least 30 days, the County has not cured the Imperiling Condition(s); and 2) the City has removed its Inmates; and 3) the City has given the County formal written notice of final termination under this provision. After Termination under this provision the City shall have no further financial obligations under this Agreement.

C. **Material Breach:** Either party shall have the right to terminate this Agreement if: 1) the other party is in material breach of any term of this Agreement; 2) the terminating party has sent the breaching party written notice of its intent to terminate this Agreement under this section by certified mail, return receipt requested describing with reasonable specificity the basis for the termination; and 3) the breaching party has failed to cure the breach within ninety (90) days, unless the parties agree in writing to a longer cure period. Termination shall be effective upon and the City shall have no further financial obligations under this Agreement from the date of removal of its Inmates from the Yakima Facility or County's receipt of final notice that City is terminating the Agreement after the expiration of the cure period, whichever occurs last.

**31. Real or Personal Property.** It is not anticipated that any real or personal property will be acquired or purchased by the parties solely because of this Agreement.

**32. Equal Opportunity.** Neither party shall discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, political affiliation or belief or the presence of any sensory, mental or physical handicap in violation of any applicable federal law, Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 USC 12110 et seq.). In the event of the violation of this provision, the other party may terminate this Agreement immediately.

**33. Assignment.** This Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by the County to any other person or entity without the prior written consent of the City. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of County stated herein.

**34. Non-Waiver.** The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

**35. Severability.** If any portion of this Agreement is changed per mutual Agreement or any portion is held invalid, the remainder of the Agreement shall remain in full force and effect.

**36. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any actions, suit, or judicial or administrative proceeding for the enforcement of this Agreement shall be brought and tried in the Federal or Superior Court for the State of Washington in King County

**37. Approval and Filing.** Each party shall approve this Agreement by resolution, ordinance or otherwise pursuant to the laws of the governing body of each party. The attested signatures of the City, Manager or Mayor and the Yakima County Commissioners below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed with the Yakima County Auditor's Office pursuant to RCW 39.34.040.

**38. General Provisions.** Unless otherwise agreed in writing executed by both parties, on and after January 1, 2018, and so long as this Agreement remains in effect, this document constitutes the entire Agreement between the City and the County under which the County houses City Inmates, and no other oral or written agreements between the parties shall affect this Agreement.

No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties.

The County shall not delegate its duties pertaining to housing City Inmates without the written consent of the City, which consent shall not be withheld unreasonably.

Any provision of this Agreement that is declared invalid or illegal shall in no way affect or invalidate any other provision.

In the event the County or City defaults on the performance of any terms of this Agreement and files a lawsuit, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses.

This Agreement may be executed in any number of counterparts.

**39. Notices.** Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

TO CITY: Rick Smith, Police Chief  
Marysville Police Department  
1635 Grove Street  
Marysville, WA 98270

TO COUNTY: Ed Campbell, Director  
Yakima County Department of Corrections  
111 North Front Street  
Yakima, WA 98901

Alternatively, to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

	<p><b>CITY OF MARYSVILLE, WASHINGTON</b></p> <p>By: _____ City Mayor/Manager</p> <p>Date: _____</p> <p>Attest: By: _____ City Clerk</p>
--	---

	<p>Approved as to form:</p> <p>By: _____</p> <p>City Attorney</p>
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**ATTACHMENT A**  
**MEDICAL ACCEPTABILITY**

The County shall determine the medical and mental acceptability of inmates for transport using the following excluding criteria:

1. Blood or fluid present at an open wound site or bleeding from an open wound.
2. Signs of untreated broken bones or dislocated joints.
3. Any injury or illness requiring immediate or emergency medical treatment.
4. Unconsciousness.
5. Inmates unable to stand and walk under their own power.
6. Wheel chair bound individuals.
7. Signs of alcohol toxicity and signs of current or recent use of any intoxicants.
8. Signs of alcohol and/or drug withdrawal.
9. Bed bound individuals.
10. Individuals with attached IV or requiring IV medications.
11. Individuals requiring the use of oxygen tanks.
12. AMA (Against Medical Advice) from the hospital.
13. Individuals having had major invasive surgery within the last 72 hours. Non-invasive surgery such as oral surgery, laser-eye surgery and minor surgery may be evaluated on a case by case basis.
14. Post-operative persons who have follow up appointments within the next four weeks.
15. Wounds with drainage tubes attached.
16. Persons with permanent catheters.
17. Open and/or oozing bedsores.
18. Individuals requiring nebulizers who cannot obtain one.
19. Persons with Alzheimer's, dementia or other psychological conditions to the point where the inmate cannot perform activities of daily living ("ADL's") or who do not have the capacity to function safely within a correctional environment.
20. Persons who are diagnosed as developmentally delayed and who do not have the capacity to function safely within a correctional environment or who cannot perform ADL's.
21. Female inmates more than 5 months pregnant. Or any female inmate considered a high-risk pregnancy.
22. Persons undergoing chemotherapy and/or radiation treatment.
23. Persons undergoing dialysis.



24. Persons with the following untreated medical conditions:
  - a) Heart disease
  - b) Seizures disorders
  - c) Insulin dependent diabetes
  - d) Cancer
  - e) Asthma
  - f) Psychosis
  - g) HIV Positive or AIDS
25. Persons who are HIV positive or have AIDS and are taking anti-viral medications.
26. Persons taking Methadone, or Suboxone, a substitute for Methadone.
27. Persons with suicidal ideations or gestures within the past 72 hours.
28. Person, if prescribed, have not taken psychotropic medications for at least 72 hours.
29. Persons who have attempted suicide within the last 30 days.
30. Persons who have attempted suicide by overdose or ligature strangulation during current incarceration.
31. Persons displaying current psychotic episode.
32. Persons requiring CPAP machines as prescribed must be transported with the machine.

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**ATTACHMENT B**  
**PROPERTY**

County transport personnel will only accept Inmate property as follows:

1. The property shall be sealed in a single property bag no larger than a common paper grocery bag.
2. Money, valuables, and medications shall be placed in a clear envelope and sealed within the Inmate's property bag.
3. Checks and documents (court, warrants, etc) shall be attached to the outside of the property bag.
4. The transporting officer shall account for the property bag and funds being transported. Yakima County Department of Corrections transport personnel will not accept or transport the following:
  - a) Backpacks, suitcases, etc.
  - b) Unpackaged food products or food products in packaging that has been opened.
  - c) Any type of weapon (includes pocketknives).
  - d) Liquids.
  - e) Any items that will not fit into the property bag.
  - f) Material deemed to be contraband.

Yakima County will limit property returned with the Inmate to the City according to these criteria.

---

**ATTACHMENT C**  
**CLASSIFICATION**

The City shall supply the County with the following Classification related information, if it known to or in possession of the City:

1. If the City Inmate has been classified to a special housing unit and/or if the City Inmate has been classified as protective custody.
2. If the City Inmate is a violent offender or has displayed violent behavior during present or past incarcerations.
3. If the City Inmate is an escape risk.

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**ATTACHMENT D**  
**BORROWING**

One contracting city may "borrow" another contracting city's inmate as follows:

1. If a City requests the transport of another contracting City's Inmate from the County the requesting City must notify each agency with rights to custody of the Inmate, and if each agency with rights to custody of the Inmate notifies the County in writing (e-mail) of its approval, the County shall provide the requested transport. The County will complete a custody transfer form that lists all outstanding detainers. The custody transfer paperwork will accompany the inmate.
2. Once custody of the City Inmate has been transferred to another agency, it is the responsibility of the requesting City to determine whether the City Inmate shall be returned to the custody of the County, and if so, the requesting City shall make all necessary and proper arrangements with the County and any agency with rights to custody of the Inmate, for the Inmate's return according to the terms of this agreement.
3. The County will not track the City Inmate once he or she has left the County's facility.
4. If the Inmate is returned to the custody of the County, the requesting City shall provide the County with sentencing/charge information. The City shall supply all pre-sentence, and post-sentence paperwork from agreeing agencies that authorized the borrowing of the Inmate. This will aid Yakima County in determining split billing and release dates.
5. If the agency requesting to borrow a City Inmate is not in the "Contracting Agency," the requesting agency will be responsible to make all transport arrangements including all legal paperwork for the transport with the City of jurisdiction.
6. The County will transport the City Inmate only to a King County city that also contracts with the County for Inmate housing.
7. Inmates transported by the City, cannot be borrowed out of YCDOC.

**ATTACHMENT E**

**This attachment only applies to Inmates transported by the YCDOC.**

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**WARRANTS/OTHER COURT ORDERS/DETAINERS**

1. The following shall apply to City Inmates who are subject to warrants from other jurisdictions or to other court orders for confinement or detainers. When receiving a City Inmate, the Transport Officers shall review all paperwork provided by the City for all grounds to hold the Inmate and ensure that this information is entered into the County's JMS and is routed to the Out of County Transport Section Office Specialist.
2. Prior to releasing a City Inmate, the County shall check the NCIC and WACIC systems to determine if the Inmate is subject to any valid warrants or other detainers.
  - a) If the Inmate is subject to a warrant that is limited to King County, YCDOC will, upon receiving written permission (e mail) from the City, transport the Inmate to the custodial agency for the jurisdiction that issued the warrant. However, Yakima County will not assume responsibility to serve any such warrants.
  - b) If the City Inmate is subject to a warrant from a western Washington jurisdiction outside King County, YCDOC will release the Inmate at the location determined by written (e mail) agreement of the YCDOC and the City under Section 5 of this Agreement.
  - c) If the City Inmate is subject to a warrant from an eastern Washington jurisdiction, YCDOC will send the Inmate to the custodial agency for that jurisdiction on the Mini-Chain.
  - d) If, upon return from YCDOC to the City, the Inmate is subject to a warrant that provides for statewide extradition, YCDOC will either transport the Inmate to the detention/correction facility in King County designated by the agency/jurisdiction that issued the warrant if it is in King County, or will send the Inmate to the agency/jurisdiction that issued the warrant on the Mini-Chain.
3. City Inmates who have or are subject to Immigration and Custom Enforcement (ICE) detainers shall be returned to the City, unless the County and City agree in writing (email) to some other course of action.

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**ATTACHMENT F****INMATE RELEASE**

County transport personnel will release City Inmates as follows:

1. Inside a staffed correction or detention facility (jail).
2. Inside a staffed police agency (sally port or other secured area).
3. Outside of a Law Enforcement Agency when agency personnel, telephone access, and weather protection (lobby areas) are available to the released Inmate.
4. The County does not transport on Mondays.
5. City Inmates for whom bail is posted, or who otherwise have a right to be released may, by signed written waiver, choose to remain in custody and return to City by the regularly scheduled transport, or to be released to a family member or friend, or to the streets of Yakima.
6. Inmates transported by City must be picked up at least 12-(twelve) hours prior to the inmate's scheduled release date and time. If the inmate is not picked up before the scheduled release time, the Inmate will be automatically scheduled to be transported, at the City's cost to include the addition of transport fees for all days served, on the next available transport to the City.

2018 Inmate Housing Agreement – City of Marysville

DONE this \_\_\_\_\_ day of \_\_\_\_\_ 2017

**BOARD OF YAKIMA COUNTY COMMISSIONERS**

\_\_\_\_\_  
J. Rand Elliott, Chairman

\_\_\_\_\_  
Ron Anderson, Commissioner

\_\_\_\_\_  
Attest: Tiera L. Girard  
Clerk of the Board

\_\_\_\_\_  
Michael D. Leita, Commissioner  
*Constituting the Board of County Commissioners  
for Yakima County, Washington*

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

# *Index #16*



**INTERLOCAL AGREEMENT  
BETWEEN THE SNOHOMISH HEALTH DISTRICT  
AND  
THE CITY OF MARYSVILLE  
PER CAPITA CONTRIBUTION FOR HEALTH DISTRICT SERVICES**

This Interlocal Agreement for Per Capita Contribution for Health District Services is entered into by and between the SNOHOMISH HEALTH DISTRICT, a Washington Municipal Corporation (the District) and CITY OF MARYSVILLE a municipal corporation of the State of Washington (the City) – collectively (the Parties), for the purpose of providing for a per capita contribution by the City for Health District Services.

**RECITALS**

**WHEREAS**, This Agreement is made pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW; and

**WHEREAS**, to promote the public health in Snohomish County, Washington, the Board of County Commissioners of Snohomish County, Washington, established a Health District on January 1, 1959, embracing all of the territory within Snohomish County, Washington, and all cities and towns therein; and

**WHEREAS**, in 1966 the Snohomish Health District became the first local health jurisdiction in the state to organize a city-county cooperative health program with cities indicating a willingness to participate financially in support of Health District programs; and

**WHEREAS**, on January 1, 1967, eleven of 18 cities and towns agreed to voluntarily contribute \$0.50 per capita to the Health District in return for public health services; and

**WHEREAS**, per capita contributions from towns and cities continued and in 1986, with such contributions ranging from \$1.60 to \$2.70 per capita until the early 1990s; and

**WHEREAS**, in 1993, counties assumed exclusive financial responsibility for public health relying on Motor Vehicle Excise Tax (MVET) revenues; and

**WHEREAS**, in 2000, the Washington State Legislature repealed MVET and backfilled only 90% of lost public health funds; and

**WHEREAS**, state funding for local public health has decreased 65.7% from a peak of \$27.29 per capita in 2000 to \$9.36 per capita in 2014; and

**WHEREAS**, the Health District has experienced a 22% decrease from its 2005 funding level while the county population has increased by 14 percent in the same 10-year period; and

**WHEREAS**, since the “peak” of 2008, the Health District has reduced its staffing by 37 percent (85 FTE) due to static or declining revenues in the face of increased costs; and

**WHEREAS**, the Health District ranks 34th out of 35 local health jurisdictions in the state for public health expenditures per resident; and

**WHEREAS**, the Health District’s ability to perform its most essential functions have been severely compromised since the great recession; and

**WHEREAS**, the Health District serves an essential public safety function whether ensuring safe food, schools, and septic systems, responding to disasters, or preventing and responding to disease outbreaks; and

**WHEREAS**, threats to the public's health in the form of foodborne illness such as E.coli and salmonella, communicable diseases such as pertussis, tuberculosis, measles, Zika, and Ebola and natural disasters such as the Oso/SR530 mud slide respect no municipal boundaries; and

**WHEREAS**, public health is a shared responsibility and regional public health threats require regional responses and close partnerships with every city and town in Snohomish County; and

**WHEREAS**, consistent with RCW 70.05, the Snohomish County Council is responsible for establishing the Snohomish Health District Board of Health, with jurisdiction coextensive with the boundaries of the county, to supervise all matters pertaining to the preservation of life and health of the people within its jurisdiction; and

**WHEREAS**, an effective, regional public health response to the threats to public health in Snohomish County requires the cooperation, participation and support of Snohomish County and all of the cities and towns in Snohomish County; and

**WHEREAS**, Snohomish County and the cities and towns therein seek to improve and sustain healthy years of life of their residents by engaging in an enhanced partnership with the Health District. This partnership will provide stable funding for public health priorities that would be established to meet the unique needs of each community; and

**WHEREAS**, to further this partnership, the District commits to improvements recommended in the Ruckelshaus report, including finding a sustainable funding model, updating the strategic plan and governance, and establishing county-wide priorities for current funding levels.

**NOW, THEREFORE**, in consideration of the agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the District agree as follows:

**1. Purpose.**

- A. The recitals set forth above are incorporated herein by this reference.
- B. The purpose of this Agreement is to establish and define the terms and conditions for the cooperative efforts to be undertaken by the City and the District to promote, facilitate, and undertake various programs and activities.

**2. Term.**

The initial term of this Agreement shall be from January 1, 2017 to December 31, 2017. The term may be extended by mutual written agreement of the parties.

**3. Scope of Services.**

A. Responsibilities of the City.

The City shall contribute \$1.00 per capita (\$64,940) to the Snohomish Health District commencing January 1, 2017. Payment may be made in one lump sum on or before December 31, 2017, or in four (4) equal payments before the end of each quarter in 2017.

B. Responsibilities of the District.

The Health District shall provide basic essential public health services and functions such as ensuring safe food, and inspecting septic systems, responding to disasters, or preventing and responding to disease outbreaks.

The District will provide quarterly reports to the city identifying services provided to Marysville residents and businesses on or before May 31, 2017, August 31, 2017, November 30, 2017, and February 28, 2018.

Additional specific services provided by the Health District to the City may be developed jointly by the parties.

- C. **No Separate Entity.**  
No separate entity is created by this agreement to carry out its purposes. The agreement will be jointly administered by the Chief Administrative Officer of the City and the Director of the District.

**4. Legal Requirements.**

Both parties shall comply with all applicable federal, state and local laws in performing this Agreement.

**5. Public disclosure laws.**

The City and the District each acknowledge, agree and understand that the other party is a public agency subject to certain disclosure laws, including, but not limited to Washington's Public Records Act, chapter 42.56 RCW. Each party understands that records related to this Agreement and the District's performance of services under this Agreement may be subject to disclosure pursuant to the Public Records Act or other similar law.

**6. Insurance.**

Both parties shall maintain membership in a self-insured municipal insurance pool.

**7. Indemnification.**

The District shall protect, save harmless, indemnify and defend the City its elected officials, officers, employees and agents, from and against any loss or claim for damages of any nature whatsoever, including claims by third parties or District employees against which it would otherwise be immune under Title 51 RCW or other law, arising out of any act or omission of the District in performance of this Agreement, its elected or appointed officials, officers, employees or agents, except to the extent the loss or claim is attributable to the negligence or misconduct of the City, its elected officials, officers, employees or agents.

The City shall protect, save harmless, indemnify and defend the District, its elected and appointed officials, officers, employees and agents from and against any loss or claim for damages of any nature whatsoever, including claims by third parties or City employees against which it would otherwise be immune under Title 51 RCW or other law, arising out of any act or omission of the City in performance of this Agreement, its elected or appointed officials, officers, employees or agents, except to the extent the loss or claim is attributable to the negligence or misconduct of the District, its elected or appointed officials, officers, employees or agents.

**8. Notices.**

Any notice/payment to be given to the District under this Agreement shall be either mailed or personally delivered to:

**Snohomish Health District**  
3020 Rucker Avenue, Ste 306  
Everett, WA 98201

Any notice/invoice to the City shall be mailed or hand delivered to:

**City of Marysville**  
1049 State Ave

Marysville, WA 98270

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

**9. Venue.**

The laws of the State of Washington shall apply to the construction and enforcement of this Agreement. Any action at law, suit in equity, or judicial proceedings for the enforcement of this agreement or any provision hereto shall be in the Superior Court of Snohomish County, Everett, Washington.

**10. Disputes.**

The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

**11. No third party beneficiaries; no joint venture.**

This Agreement is for the sole benefit of the City and District and shall not confer third-party beneficiary status on any non-party to this Agreement. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties. District employees who provide services under this Agreement shall at all times be acting in their official capacities as employees of the District.

**12. Entire Agreement.**

This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by written agreement executed by both parties. Both parties recognize that time is of the essence in the performance and the provisions of this Agreement.

**13. Severability.**

- A. If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

**14. Filing.**

As provided by RCW 39.34.040, this Agreement shall be filed with the Snohomish County Auditor, or, alternatively, posted on the website of each party.

**15. Execution in Counterparts.**

This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

**16. Effective Date.** January 1, 2017

**City of Marysville**

\_\_\_\_\_  
Jon Nehring, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

**Snohomish Health District**

\_\_\_\_\_  
Peter M. Mayer, Deputy Director

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Grant Weed, Health District Attorney

*Update*  
*Index #18*

**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: October 9, 2017**

AGENDA ITEM: Payroll	AGENDA SECTION:	
PREPARED BY: Sandy Langdon, Finance Director	AGENDA NUMBER:	
	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

**RECOMMENDED ACTION:**

The Finance and Executive Departments recommend City Council approve the October 5, 2017 payroll in the amount \$1,816,216.95, EFT Transactions and Check No.'s 31139 through 31166.

**COUNCIL ACTION:**

*Update*  
*Index #3*



**CITY OF MARYSVILLE AGENDA BILL**  
**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: October 9, 2017**

<b>AGENDA ITEM:</b>	
Contract Award: 2017 Emergency Generator Project	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Kyle Hays, Project Engineer	KE for KN
<b>DEPARTMENT:</b>	
Engineering	
<b>ATTACHMENTS:</b>	
Certified Bid Tab, Vicinity Map	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
40220594.563000.W1602	\$359,606.37
40220594.563000.S1601	
<b>SUMMARY:</b>	

The 2017 Emergency Generator Project includes furnishing and installing emergency generators at the following locations and as shown in the attached vicinity map: Cedarcrest Booster Pump Station, Carroll’s Creek Lift Station, Cedarcrest Vista Lift Station and Kellogg Ridge Lift Station. Emergency generators will ensure operation of the facilities during power outages.

The project was bid as one base bid - Cedarcrest Booster Pump Station and Carroll’s Creek Lift Station, bid additive 1 – Cedarcrest Vista Lift Station and bid additive 2 – Kellogg Ridge Lift Station.

The project was advertised for an October 3, 2017 bid opening. The City received six bids as shown on the attached bid tabulation. The low bidder was Valley Electric of Mt Vernon, Inc at \$326,914.88 – base bid, \$81,334.05 – bid additive 1, and \$95,301.03 bid additive 2. The engineer’s estimate is \$327,300.00 – base bid, \$92,735.00 – bid additive 1, and \$98,190.00 bid additive 2. References have been checked and found to be satisfactory.

Staff recommend award of the base bid only based on the budget projections of the 402 utility account.

Contract Bid:	\$326,914.88
<u>Management Reserve:</u>	<u>\$32,691.49</u>
Construction Total:	\$359,606.37

**RECOMMENDED ACTION:**  
 Staff recommends that Council authorize the Mayor to sign and execute the 2017 Emergency Generator Project contract with Valley Electric of Mt Vernon, Inc in the amount of \$326,914.88 including Washington State Sales Tax and approve a management reserve of \$32,691.49 for a total allocation of \$359,606.37.



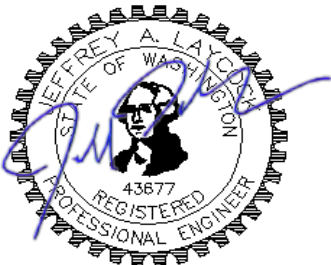
# 2017 Emergency Generator Project 40220594.563000 W1602 & S1601

Base Bid	Item	Description	Quantity	Units	Engineer's Estimate		Apparent Low Bid Valley Electric Co.		Northeast Electric, LLC		Mills Electric		Equity Builders LLC	
					Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price
	1	Cedarcrest Pump Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$49,000.00	\$49,000.00	\$107,108.00	\$107,108.00	\$122,000.00	\$122,000.00	\$140,871.62	\$140,871.62	\$75,000.00	\$75,000.00
	2	Carroll's Creek Sewer Lift Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$29,000.00	\$29,000.00	\$34,505.00	\$34,505.00	\$32,500.00	\$32,500.00	\$52,892.16	\$52,892.16	\$93,000.00	\$93,000.00
	3	Generator for installation at Cedarcrest Pump Station	EA	1.00	\$140,000.00	\$140,000.00	\$111,951.00	\$111,951.00	\$106,000.00	\$106,000.00	\$113,642.70	\$113,642.70	\$107,000.00	\$107,000.00
	4	ATS for installation at Cedarcrest Pump Station	EA	1.00	\$25,000.00	\$25,000.00	\$9,645.00	\$9,645.00	\$11,500.00	\$11,500.00	\$9,790.77	\$9,790.77	\$9,000.00	\$9,000.00
	5	Generator for installation at Carroll's Creek Sewer Lift Station	EA	1.00	\$45,000.00	\$45,000.00	\$32,745.00	\$32,745.00	\$31,000.00	\$31,000.00	\$33,239.81	\$33,239.81	\$31,320.00	\$31,320.00
	6	ATS for installation at Carroll's Creek Sewer Lift Station	EA	1.00	\$12,000.00	\$12,000.00	\$3,693.00	\$3,693.00	\$5,200.00	\$5,200.00	\$3,748.44	\$3,748.44	\$3,500.00	\$3,500.00
		<b>BASE BID</b>				<b>\$300,000.00</b>		<b>\$299,647.00</b>		<b>\$308,200.00</b>		<b>\$354,185.50</b>		<b>\$318,820.00</b>
		<b>SALES TAX (9.1%)</b>				<b>\$27,300.00</b>		<b>\$27,267.88</b>		<b>\$28,046.20</b>		<b>\$32,230.88</b>		<b>\$29,012.62</b>
		<b>BASE BID TOTAL</b>				<b>\$327,300.00</b>		<b>\$326,914.88</b>		<b>\$336,246.20</b>		<b>\$386,416.38</b>		<b>\$347,832.62</b>

Bid Add #1 - Cedarcrest Vista Sewer Pump Station													
Item	Description	Quantity	Units	Engineer's Estimate		Apparent Low Bid		Northeast Electric, LLC		Mills Electric		Equity Builders LLC	
				Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price
7	Cedarcrest Vista Sewer Pump Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$29,000.00	\$29,000.00	\$38,629.00	\$38,629.00	\$40,000.00	\$40,000.00	\$69,227.92	\$69,227.92	\$57,000.00	\$57,000.00
8	Generator for installation at Cedarcrest Vista Sewer Pump Station	EA	1.00	\$44,000.00	\$44,000.00	\$32,228.00	\$32,228.00	\$31,500.00	\$31,500.00	\$32,715.66	\$32,715.66	\$31,000.00	\$31,000.00
9	ATS for installation at Cedarcrest Vista Sewer Pump Station	EA	1.00	\$12,000.00	\$12,000.00	\$3,693.00	\$3,693.00	\$5,200.00	\$5,200.00	\$3,748.44	\$3,748.44	\$3,500.00	\$3,500.00
		<b>BID ADD #1</b>			<b>\$85,000.00</b>		<b>\$74,550.00</b>		<b>\$76,700.00</b>		<b>\$105,692.02</b>		<b>\$91,500.00</b>
		<b>SALES TAX (9.1%)</b>			<b>\$7,735.00</b>		<b>\$6,784.05</b>		<b>\$6,979.70</b>		<b>\$9,617.97</b>		<b>\$8,326.50</b>
		<b>BID ADD #1 TOTAL</b>			<b>\$92,735.00</b>		<b>\$81,334.05</b>		<b>\$83,679.70</b>		<b>\$115,309.99</b>		<b>\$99,826.50</b>

Bid Add #2 - Kellogg Ridge Sewer Pump Station													
Item	Description	Quantity	Units	Engineer's Estimate		Apparent Low Bid		Northeast Electric, LLC		Mills Electric		Equity Builders LLC	
				Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price
10	Kellogg Ridge Sewer Pump Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$29,000.00	\$29,000.00	\$50,636.00	\$50,636.00	\$45,000.00	\$45,000.00	\$69,230.59	\$69,230.59	\$74,000.00	\$74,000.00
11	Generator for installation at Kellogg Ridge Sewer Pump Station	EA	1.00	\$49,000.00	\$49,000.00	\$33,023.00	\$33,023.00	\$32,000.00	\$32,000.00	\$33,522.31	\$33,522.31	\$32,000.00	\$32,000.00
12	ATS for installation at Kellogg Ridge Sewer Pump Station	EA	1.00	\$12,000.00	\$12,000.00	\$3,693.00	\$3,693.00	\$5,200.00	\$5,200.00	\$3,748.44	\$3,748.44	\$3,500.00	\$3,500.00
		<b>BID ADD #2</b>			<b>\$90,000.00</b>		<b>\$87,352.00</b>		<b>\$82,200.00</b>		<b>\$106,501.34</b>		<b>\$109,500.00</b>
		<b>SALES TAX (9.1%)</b>			<b>\$8,190.00</b>		<b>\$7,949.03</b>		<b>\$7,480.20</b>		<b>\$9,691.62</b>		<b>\$9,964.50</b>
		<b>BID ADD #2 TOTAL</b>			<b>\$98,190.00</b>		<b>\$95,301.03</b>		<b>\$89,680.20</b>		<b>\$116,192.96</b>		<b>\$119,464.50</b>

<b>TOTAL BASE BID</b>	<b>\$327,300.00</b>	<b>\$326,914.88</b>	<b>\$336,246.20</b>	<b>\$386,416.38</b>	<b>\$347,832.62</b>
<b>TOTAL BID ADD #1</b>	<b>\$92,735.00</b>	<b>\$81,334.05</b>	<b>\$83,679.70</b>	<b>\$115,309.99</b>	<b>\$99,826.50</b>
<b>TOTAL BID ADD #2</b>	<b>\$98,190.00</b>	<b>\$95,301.03</b>	<b>\$89,680.20</b>	<b>\$116,192.96</b>	<b>\$119,464.50</b>
<b>TOTAL BASE BID + BID ADD #1</b>	<b>\$420,035.00</b>	<b>\$408,248.93</b>	<b>\$419,925.90</b>	<b>\$501,726.37</b>	<b>\$447,659.12</b>
<b>TOTAL BASE BID + BID ADD #1 + BID ADD #2</b>	<b>\$518,225.00</b>	<b>\$503,549.96</b>	<b>\$509,606.10</b>	<b>\$617,919.34</b>	<b>\$567,123.62</b>

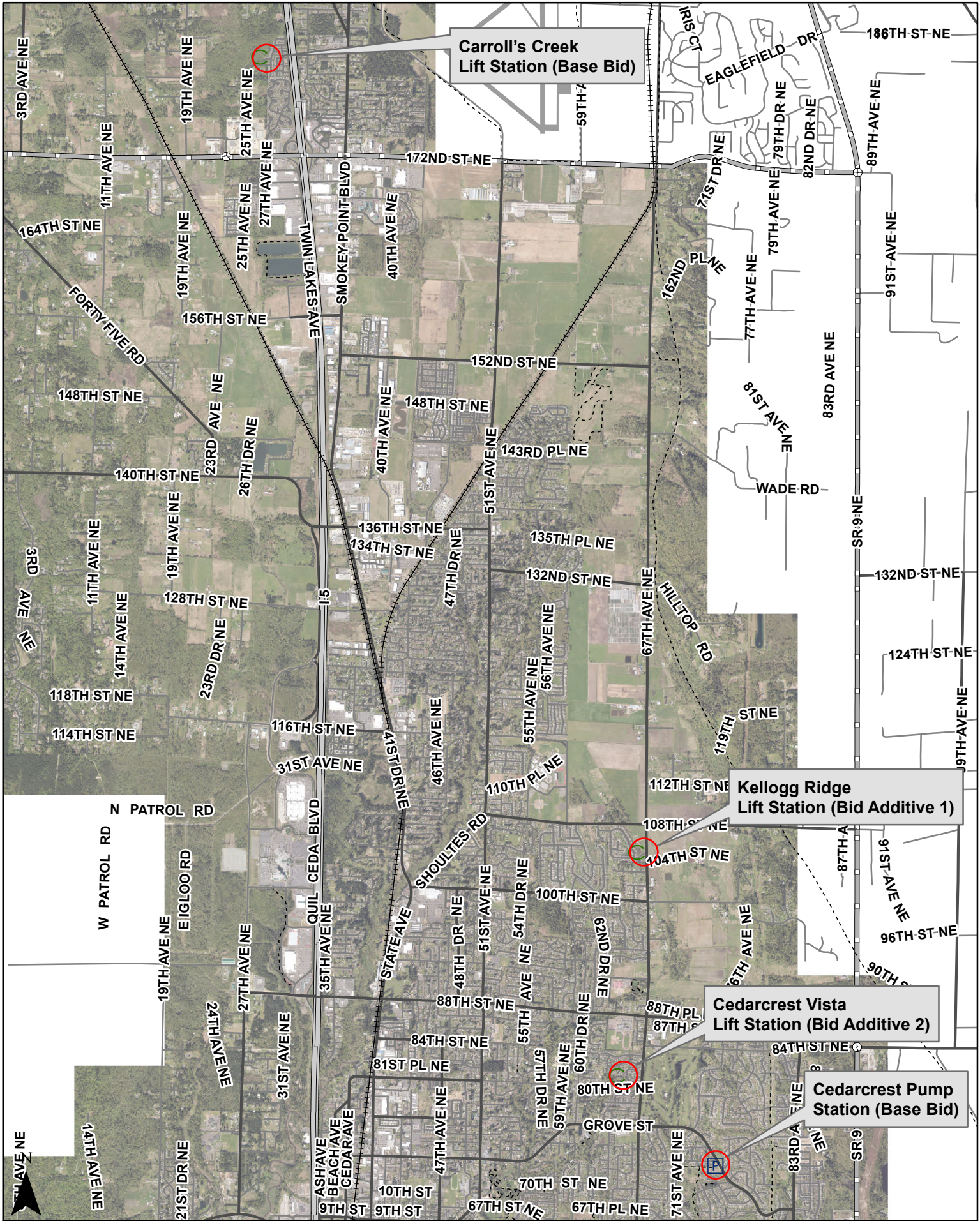




## 2017 Emergency Generator Project 40220594.563000 W1602 & S1601

Base Bid				Engineer's Estimate		Gary Harper Construction Inc		Award Construction, Inc	
Item	Description	Quantity	Units	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price
1	Cedarcrest Pump Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$49,000.00	\$49,000.00	\$110,300.00	\$110,300.00	\$127,000.00	\$127,000.00
2	Carroll's Creek Sewer Lift Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$29,000.00	\$29,000.00	\$56,300.00	\$56,300.00	\$67,500.00	\$67,500.00
3	Generator for installation at Cedarcrest Pump Station	EA	1.00	\$140,000.00	\$140,000.00	\$126,800.00	\$126,800.00	\$113,000.00	\$113,000.00
4	ATS for installation at Cedarcrest Pump Station	EA	1.00	\$25,000.00	\$25,000.00	\$11,500.00	\$11,500.00	\$10,000.00	\$10,000.00
5	Generator for installation at Carroll's Creek Sewer Lift Station	EA	1.00	\$45,000.00	\$45,000.00	\$39,300.00	\$39,300.00	\$30,000.00	\$30,000.00
6	ATS for installation at Carroll's Creek Sewer Lift Station	EA	1.00	\$12,000.00	\$12,000.00	\$6,900.00	\$6,900.00	\$10,000.00	\$10,000.00
					<b>BASE BID</b>		<b>\$300,000.00</b>		<b>\$351,100.00</b>
					<b>SALES TAX (9.1%)</b>		<b>\$27,300.00</b>		<b>\$31,950.10</b>
					<b>BASE BID TOTAL</b>		<b>\$327,300.00</b>		<b>\$383,050.10</b>
									<b>\$357,500.00</b>
									<b>\$32,532.50</b>
									<b>\$390,032.50</b>
Bid Add #1 - Cedarcrest Vista Sewer Pump Station				Engineer's Estimate		Gary Harper Construction Inc		Award Construction, Inc	
Item	Description	Quantity	Units	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price
7	Cedarcrest Vista Sewer Pump Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$29,000.00	\$29,000.00	\$53,800.00	\$53,800.00	\$54,000.00	\$54,000.00
8	Generator for installation at Cedarcrest Vista Sewer Pump Station	EA	1.00	\$44,000.00	\$44,000.00	\$38,500.00	\$38,500.00	\$28,900.00	\$28,900.00
9	ATS for installation at Cedarcrest Vista Sewer Pump Station	EA	1.00	\$12,000.00	\$12,000.00	\$6,900.00	\$6,900.00	\$10,000.00	\$10,000.00
					<b>BID ADD #1</b>		<b>\$85,000.00</b>		<b>\$99,200.00</b>
					<b>SALES TAX (9.1%)</b>		<b>\$7,735.00</b>		<b>\$9,027.20</b>
					<b>BID ADD #1 TOTAL</b>		<b>\$92,735.00</b>		<b>\$108,227.20</b>
									<b>\$92,900.00</b>
									<b>\$8,453.90</b>
									<b>\$101,353.90</b>
Bid Add #2 - Kellogg Ridge Sewer Pump Station				Engineer's Estimate		Gary Harper Construction Inc		Award Construction, Inc	
Item	Description	Quantity	Units	Unit Prices	Total Price	Unit Prices	Total Price	Unit Prices	Total Price
10	Kellogg Ridge Sewer Pump Station Upgrades (Exclusive of Generator and ATS)	LS	1.00	\$29,000.00	\$29,000.00	\$74,200.00	\$74,200.00	\$73,000.00	\$73,000.00
11	Generator for installation at Kellogg Ridge Sewer Pump Station	EA	1.00	\$49,000.00	\$49,000.00	\$40,000.00	\$40,000.00	\$30,000.00	\$30,000.00
12	ATS for installation at Kellogg Ridge Sewer Pump Station	EA	1.00	\$12,000.00	\$12,000.00	\$6,900.00	\$6,900.00	\$10,000.00	\$10,000.00
					<b>BID ADD #2</b>		<b>\$90,000.00</b>		<b>\$121,100.00</b>
					<b>SALES TAX (9.1%)</b>		<b>\$8,190.00</b>		<b>\$11,020.10</b>
					<b>BID ADD #2 TOTAL</b>		<b>\$98,190.00</b>		<b>\$132,120.10</b>
									<b>\$113,000.00</b>
									<b>\$10,283.00</b>
									<b>\$123,283.00</b>
					<b>TOTAL BASE BID</b>		<b>\$327,300.00</b>		<b>\$390,032.50</b>
					<b>TOTAL BID ADD #1</b>		<b>\$92,735.00</b>		<b>\$108,227.20</b>
					<b>TOTAL BID ADD #2</b>		<b>\$98,190.00</b>		<b>\$132,120.10</b>
					<b>TOTAL BASE BID + BID ADD #1</b>		<b>\$420,035.00</b>		<b>\$491,277.30</b>
					<b>TOTAL BASE BID + BID ADD #1 + BID ADD #2</b>		<b>\$518,225.00</b>		<b>\$623,397.40</b>
									<b>\$491,386.40</b>
									<b>\$614,669.40</b>





**Carroll's Creek  
Lift Station (Base Bid)**

**Kellogg Ridge  
Lift Station (Bid Additive 1)**

**Cedarcrest Vista  
Lift Station (Bid Additive 2)**

**Cedarcrest Pump  
Station (Base Bid)**



# 2017 Emergency Generator Project

4,000 2,000 0 2,000 4,000 Feet

Printed: September, 2017

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# *Index #12*

**CITY OF MARYSVILLE AGENDA BILL  
EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/9/17**

<b>AGENDA ITEM:</b>	
Astound Broadband, LLC (dba “Wave”) Telecommunications Franchise	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Colin Olivers	
<b>DEPARTMENT:</b>	
Legal	
<b>ATTACHMENTS:</b>	
Proposed Franchise	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
N/A	N/A
<b>SUMMARY:</b>	

Astound Broadband, LLC (dba “Wave”) has approached the City for a franchise to install fiber optic telecommunications facilities in the City rights-of-way.

Wave has an existing cable franchise, granted June 22, 2015, for the Lakewood area of the City. This is the franchise for which the City recently consented to transfer of control to Radiate Holdings. Wave is also the successor to an expired open video system franchise within the entire City, granted to Black Rock Cable, Inc. on May 11, 2006. Wave has requested that this franchise expressly replace and supersede that expired franchise.

Legal staff worked off of an existing telecommunications franchise and updated and added language to conform with current practices. From this updated starting point, City staff and Wave have negotiated the attached proposed franchise. The agreement is effective for an initial term ending December 31, 2022 and will automatically renew for an additional five years unless either party elects for the franchise to terminate.

This telecommunications franchise will also ultimately be controlled by Radiate Holdings following Wave’s sale. However, as in the context of the cable franchise, Wave will continue to operate as the responsible entity under the franchise. By the terms of this franchise, the City will not need to separately consent to the sale of Wave to Radiate Holdings.

The proposed franchise is substantially similar to the proposed franchise ordinance for MCIMetro Access Transmission Services Corp. (dba “Verizon Access Transmission Services”).

**RECOMMENDED ACTION:**  
City staff recommends that the City Council approve, and authorize the Mayor to execute, the proposed franchise.

**CITY OF MARYSVILLE**  
**Marysville, Washington**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, SETTING FORTH THE AGREEMENT BETWEEN THE CITY OF MARYSVILLE AND ASTOUND BROADBAND, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, D/B/A WAVE, GRANTING WAVE A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, AND REMOVE TELECOMMUNICATIONS FACILITIES WITHIN CITY RIGHTS-OF-WAY.

WHEREAS, Astound Broadband, LLC, a Washington Limited Liability Company d/b/a Wave (the “Company”) has applied for a nonexclusive franchise to construct, operate, maintain, repair, replace, and remove wired telecommunications facilities on Rights-of-Way within the City; and

WHEREAS, the Company is the successor to Black Rock Cable, Inc. (“Black Rock”) and operates under the Open Video System Franchise granted by the City to Black Rock by Ordinance No. 2629, dated November 13, 2001 (the “OVS Franchise”); and

WHEREAS, the OVS Franchise expired on May 11, 2016, and the City and Company have continued to operate under the terms and conditions of the OVS Franchise since then; and

WHEREAS, the Company and the City have engaged in negotiations regarding the Company’s right to utilize the City Rights-of-Way; and

WHEREAS, the City will authorize the Company to utilize the City Rights-of-Way subject to certain conditions and restrictions; and

WHEREAS, RCW 35A.47.040 and Chapter 35.99 RCW authorize the City to grant nonexclusive master permits or franchises for telecommunications facilities in the City Rights-of-Way; and

WHEREAS, the City and Company intend to replace and supersede the OVS Franchise with the franchise granted under this Ordinance; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS AND THE PARTIES DO HEREBY AGREE AS FOLLOWS:

**Section 1. Definitions.**

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings stated in this section. When consistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. To the extent not defined in this section, words shall be given their common

and ordinary meaning. The word “shall” is always mandatory and not merely directory.

1.1 “Affiliate” means any corporate entity that (1) the Company owns or controls, (2) the Company is owned or controlled by, or (3) is under common ownership with the Company. Any entity in which the Company has ownership of five percent (5%) or more of the equity ownership (either voting, control, or value) or in which the Company has actual working control, in whatever manner exercised, is an Affiliate. Both the entity owned or controlled and the entity owning or controlling are Affiliates of each other.

1.2 “Cable Television Service” means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of the video programming or other programming service.

1.3 “City” means the City of Marysville, Washington, and all the territory within its present and future boundaries and including any area over which the City exercises jurisdiction.

1.4 “City Codes” means the Marysville Municipal Code (“MMC”) and all ordinances, resolutions, standards, regulations, procedures, and policies of the City, all as currently existing or as hereafter amended or adopted.

1.5 “Communications Services” means telecommunications services or capacity provided by the Company using its Facilities, either directly or by its Affiliates, including, but not limited to, the transmission of voice, data, or other electronic information by wire, fiber optic cable, or other similar means. For purposes of this subsection, “information” means knowledge or intelligence represented by writing, signs, signals, pictures, sounds, or any other symbols. Communications Services does not include Cable Television Service or Wireless Telecommunications Services.

1.6 “Facilities” means the Company’s telecommunications system constructed and operated within the City’s Rights-of-Way. Facilities shall include all wires, fiber optic cables, cables, amplifiers, conductors, lines, conduits, ducts, manholes, pedestals, meters, and any associated converters, equipment, or other appurtenances and facilities for the purpose of providing Communications Services under this Franchise.

1.7 “Franchise” means the nonexclusive rights, privileges, obligations, and authority granted to the Company under this Ordinance. The Franchise may also be referred to as the “Master Permit” or the “Agreement.”

1.8 “Person” means any individual, corporation, partnership, association, joint venture, organization, or entity of any kind and the lawful trustee, successor, assignee, transferee, or personal representative thereof.

1.9 “Rights-of-Way” means the surface of any land and any space above or below the land previously or hereafter acquired by or dedicated to the public or the City for the purposes, in whole or in part, of public travel. Rights-of-Way includes, but is not limited to, public streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, and similar public property and areas located within the City and under the City’s jurisdiction. Rights-of-Way, for purposes of this Franchise, shall only include those areas that have been improved and/or maintained by the City. Rights-of-Way shall not include State highways. Rights-of-Way shall not



include structures, including poles and conduits, located within the Rights-of-Way.

1.10 “Wireless Telecommunications Services” means the wireless transmission of voice, data, or other electronic information by antennas and radio units whether macrocells, microcells, small cells, distributed antenna systems, or other similar means and associated support facilities including towers, poles, and base stations. Wireless Telecommunications Services does not include providing Communications Services to a site for connection to Wireless Telecommunications Services.

## **Section 2. Grant of Franchise.**

2.1 The City hereby grants the Company a Franchise to use and occupy Rights-of-Way for the purpose of providing Communications Services, including, without limitation, the right to construct, operate, maintain, repair, replace, and remove Facilities in accordance with this Ordinance. The Company and the City recognize that the Company intends, pursuant to this Franchise, to operate and maintain a wired telecommunications system. This Franchise does not grant the Company the right to utilize Rights-of-Way to construct, operate, maintain, repair, replace, or remove any facilities to provide Wireless Telecommunications Services. However, pursuant to this Franchise, the Company may provide Communications Services as backhaul support for Wireless Telecommunications Services located on private property or otherwise constructed, operated, or maintained pursuant to a valid franchise from the City. In order to provide any other services over the Facilities, the Company shall first be required to obtain any additional governmental authorizations required by law. This Franchise replaces and supersedes the OVS Franchise.

2.2 In exercising its rights and obligations under this Franchise, the Company shall comply with all lawfully enacted City Codes. In the event of a conflict between the provisions of this Franchise and the City Codes, the more restrictive provision shall control. In addition, in exercising its rights and obligations under this Franchise, the Company shall comply with all applicable State and Federal laws and regulations.

2.3 The provisions of this Franchise are subject to the lawful exercise of the City’s police powers upon reasonable notice to the Company and nothing contained herein shall be deemed to affect the City’s authority to exercise its police powers to the fullest extent afforded by the Washington State constitution and State law. In accepting this Franchise, the Company acknowledges that its rights hereunder are subject to the police power of the City to adopt and enforce, from time to time and in a manner the City deems reasonable, general ordinances necessary for the safety, health, and welfare of the public. This Franchise shall not be interpreted to prevent the City from imposing additional lawful conditions, including additional compensation for the use of the Rights-of-Way should the Company provide services other than Communications Services.

2.4 This Franchise does not grant the Company any vested right to use any portion of the Rights-of-Way except for locations approved by the City and then subject to the terms and conditions of this Franchise and the City’s approval.

2.5 The authority granted herein to the Company is a limited authorization to construct,

operate, maintain, repair, replace, and remove Facilities in the Rights-of-Way to provide Communications Services and shall not include or be a substitute for:

2.5.1 Any other permit or authorization required for the privilege of transacting and carrying on a business within the City, including, but not limited to, a City business license; or

2.5.2 Any permit, agreement, authorization, or condition that may be required by the City for using the Rights-of-Way in connection with operations on or in the Rights-of-Way or public property, such as Rights-of-Way use permits and approved traffic control plans; or

2.5.3 Any permit, agreement, or authorization for occupying any other property of the City or private entity to which access is not specifically granted by this Franchise, including, but not limited to, permits, agreements, or authorizations for placing devices on poles, in conduits, or in or on other structures.

2.6 This Franchise only conveys limited rights and interests as to the Rights-of-Way in which the City has an actual interest. The Franchise is not a warranty of title or interest, does not provide the Company with any representation as to any location of a Right-of-Way or the nature of the City's interest in any Rights-of-Way, and does not provide the Company with any interest in any particular location within the Rights-of-Way. The Franchise does not grant the Company any right to install any Facilities on any City property other than Rights-of-Way, upon any private property without the owner's consent, or upon any public or privately owned utility poles or conduits. To the extent the Company's use of a Right-of-Way is inconsistent with the terms, conditions, or provisions by which the Right-of-Way was created, dedicated, or is presently used, the Franchise grants the Company no right to construct, operate, maintain, repair, replace, or remove Facilities from that Right-of-Way.

2.7 This Franchise shall not be construed as to deprive the City of any rights or privileges that the City now has or may hereafter have to regulate the use and control of the Rights-of-Way and public property. Nothing in this Franchise shall limit or expand the City's right of eminent domain under State law and the Company acknowledges that its use of the space in the Rights-of-Way, but not the actual Facilities themselves, shall have no value for purposes of eminent domain compensation. If at any time the City exercises its authority to vacate all or any portion of any Right-of-Way pursuant to this Franchise, the City shall not be liable for any damages or loss to the Company because of such vacation. The City may, upon ninety (90) days written notice to the Company, terminate this Franchise with respect to any such vacated area.

2.8 The rights and privileges granted under this Franchise are not exclusive. The Franchise is subject to all prior rights, interests, easements, or licenses granted by the City or its predecessors to any Person to use any property, Rights-of-Way, easement, right, interest, or license. The City reserves the right to approve the use of Rights-of-Way for any purpose not incompatible with the Company's rights under this Franchise. The City reserves the right to grant additional franchises upon the same or similar terms at any time and to any Person, provided, however, that such additional grants will not operate to materially modify, revoke, or terminate any rights granted to the Company under this Franchise. The grant of any additional franchise alone shall not constitute a modification, revocation, or termination of rights previously granted to the Company.

2.9 This Franchise does not establish any priority for the use of the Rights-of-Way by the Company or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the Rights-of-Way, the first priority shall be to the City in the performance of its various functions, the second priority shall be to the public generally, and thereafter the City, in exercise of its powers, in a reasonable and non-discriminatory manner shall determine priority between users.

2.10 To the extent that any of the Rights-of-Way within the City are a part of the State highway system and are governed by the provisions of Chapter 47.24 RCW and applicable Washington State Department of Transportation regulations, the Company shall comply with said requirements in addition to City Codes. The Company shall correct any noncompliant Facilities identified by the City or by any other local, State, or Federal governmental entity.

### **Section 3. Term.**

3.1 Term. This Franchise shall be in effect from the date of acceptance, as set forth in section 17, until December 31, 2022, unless earlier terminated or revoked.

3.2 Renewal. This Franchise will automatically renew for an additional five (5) year period, upon the same terms and conditions, unless either party, prior to October 1, 2022, informs the other in writing that it wants the Franchise to expire on December 31, 2022.

3.3 Failure to Renew. If neither party indicates its desire for the Franchise to expire as provided in section 3.2 and the parties fail to formally renew this Franchise prior to December 31, 2027, the Franchise will automatically renew month to month until formally renewed or until either party gives written notice, at least ninety (90) days in advance, of its intent to have the Franchise expire.

### **Section 4. Use of Rights-of-Way.**

4.1 Installation of Facilities. Subject to the City Codes, the Company may construct, operate, maintain, repair, replace, and remove its Facilities in, over, under, across, and along the City's Rights-of-Way, as necessary and appurtenant to the provision of its Communications Services.

4.2 Site Specific Agreements. Prior to constructing, installing, or operating any Facility on any City owned structure within a Right-of-Way or installing any Facility which will occupy, more than de minimisly (i.e. a fiber optic cable protruding), the surface of a Right-of-Way (such as utility poles, monopoles, cell towers, vaults, power supplies, etc.), the Company must first enter into a site specific agreement with the City in a form agreed to by the Parties. The City has sole discretion to enter into a site specific agreement and may refuse to do so, among other reasons, where another facility is available for co-location or where a Facility at the given location is not necessary to the Company's provision of Communications Services.

4.3 Permits Required for Construction. Prior to doing any work in the Rights-of-Way, the Company shall apply for, and obtain, appropriate permits from the City including Right-of-Way permits and construction permits. As part of the permitting or approval process, the City may impose, in addition to the requirements contained in this Franchise, such reasonable conditions and regulations as are necessary: (1) to protect any structures in the Rights-of-Way and the

public's use of the Rights-of-Way for pedestrian and vehicular traffic; (2) to provide for the proper restoration of the Rights-of-Way; and (3) to protect the public health, safety, and welfare.

4.3.1 Applications for any required permits or authorizations shall be made, processed, and approved in accordance with applicable City Codes in effect at the time of application. The Company shall assure that all applications, whether submitted by the Company, its employees, agents, or contractors clearly identifies that the work is being done for the benefit of the Company and pursuant to this Franchise.

4.3.2 All permits or authorizations issued for the Company's Facilities or related to its Communications Services are subject to the provisions of this Franchise and the Company, its employees, agents, or contractors shall comply with the provisions of this Franchise whether incorporated into such permit or authorization or not.

4.3.3 The Company shall pay all generally applicable fees for the permit or authorization in accordance with the City Codes in effect at the time of application.

4.3.4 The City may require the Company's Facilities be installed at a particular time, at a particular place, or in a particular manner as a condition of access to a particular Right-of-Way and may deny access if the Company is not willing to comply with the City's requirements.

4.3.5 If the City reasonably determines that the work covered by an application presents a potential for disruption of traffic, injury, damage, or expense to the City if not correctly and timely completed, the City may require the Company to provide an assurance device, in a form acceptable to the City, prior to issuance of a permit or approval. Such project specific assurance device will be in addition to any general assurance devices required by this Franchise.

4.3.6 The City, following advance written notice of not less than thirty (30) days, may require the Company, at its own expense, to modify or remove any Facilities not authorized by this Franchise or installed without prior City approval. The City may remove the Facilities at the Company's sole expense if the Company fails to do so within the time period established by the City.

#### 4.4 General Standards.

4.4.1 All work authorized and required hereunder shall be done in a safe, thorough, and workmanlike manner. All work authorized and required hereunder shall comply with the City permit or authorization, City Codes, and Federal and State law and regulations.

4.4.2 All installation of the Facilities shall be durable and installed in accordance with good engineering practices and industry standards in effect on the date the permits and authorizations are issued for the affected Facilities.

4.4.3 The Company, its employees, agents, and contractors shall comply with all applicable Federal, State, and City safety requirements, rules, regulations, laws, and practices in effect on the date the permits and authorizations are issued for the affected Facilities. By way of illustration and not limitation, this includes the National Electric Code, National Electrical Safety Code, and Occupational Safety and Health Administration (OSHA) Standards.

4.4.4 The Company represents that it is familiar with Chapter 19.122 RCW and understands and will comply with local procedures and practices relating to the one call locator service program. The Company and the City shall each comply with their respective obligations pursuant to Chapter 19.122 RCW.

4.5 Coordination. The Company agrees to cooperate with the City's Public Works Department to identify and evaluate the portions of Rights-of-Way necessary for the Company to serve its customers. Priority shall be given to use of those portions of Rights-of-Way where construction can be coordinated with other City and private construction activities, which will least impact the existing condition of the Rights-of-Way, will least impact traffic during construction, and will least impact adjacent neighborhoods during construction and after installation. Sources for planned City and private construction activities include the City's Capital Facilities Plan, Comprehensive Plan, Comprehensive Utility Plan, written construction and planning schedules, and pending development, right-of-way, and construction applications.

4.5.1 Thirty (30) days after acceptance of this Franchise and annually thereafter, the Company shall submit to the City's Public Works Department a plan that shows all major work anticipated to be done in the Rights-of-Way for up to the next five (5) years, to the extent that the development of such plans is reasonably advanced. The City will utilize the plan to identify conflicts and opportunities for coordination between users of the Rights-of-Way. The Company's plan shall be informational only and shall not obligate the Company to undertake any particular project or work. The Company shall identify any portions of its plan that the Company in good faith believes is not subject to disclosure under Chapter 42.56 RCW, shall mark such portions "Confidential," and shall provide a citation to the statutory basis for non-disclosure. The City will exercise its sole legal judgment in responding to a public records request. The City will provide the Company with notification of any anticipated disclosure at least five (5) business days prior to such disclosure to provide the Company an opportunity to obtain a court order preventing disclosure in the event the City intends to disclose a portion of the Company's plan marked "Confidential."

4.5.2 The City adopts a Capital Facilities Plan from time to time, which identifies the roadway projects that the City anticipates constructing during the term of the Capital Facilities Plan. The City will provide the Company a copy of the City's Capital Facilities Plan after acceptance of this Franchise and after adoption of an updated plan during the term of this Franchise.

4.5.3 Within thirty (30) days of acceptance of this Franchise, the Company shall provide the City an email address for the City to add to an email list. The City will communicate substantial (more than 500 lineal feet) roadway projects to this email list in order to provide the Company an opportunity to plan to install Facilities with minimal interruption.

4.5.4 Access to Open Trenches.

4.5.4.1 The Company will be entitled to reasonable access to open City utility trenches, provided that such access does not interfere with the City's placement of utilities or increase the cost to the City thereby. The Company shall pay the City the actual cost to the City resulting from providing the Company access to an open trench, including without limitation the

pro rata share of the costs of access to an open trench and any costs associated with the delay of the completion of a public works project.

4.5.4.2 The Company shall provide the City and other utility providers or franchise holders access to its open trenches, provided that: (1) such access does not interfere with the Company's Facilities, (2) the other utility provider or franchise holder agrees to reasonable terms of use, including reasonable costs or fees, and (3) the other utility provider or franchise holder has agreed to similar terms to provide access to its trenches.

4.5.4.3 The City will use reasonable efforts to include the Company in any platting process within the City and will exercise reasonable efforts to include, as a condition of issuing a permit for open trenching to any utility or developer, that: (a) the utility or developer give the Company at least fourteen (14) days advance written notice of the availability of the open trench and (b) that the utility or developer provide the Company with reasonable access to the open trench.

4.5.5 If the Company receives email notice of a substantial roadway project and fails to coordinate installation of its Facilities and thereafter seeks to trench, excavate, bore, or cut the street or overlay within five (5) years, the Public Works Director or designee may require additional roadway restoration. The Company agrees that such additional required roadway restoration may include full-width patching extending five (5) feet beyond the Company's disruption of the Right-of-Way.

4.5.6 Subject to receiving reasonable advance written notice, the Company shall have the opportunity to have a representative attend and participate in meetings of the City regarding Rights-of-Way issues that may impact the Company's Facilities.

4.5.7 In all cases, the Company shall utilize existing poles and conduit wherever possible and shall not install new poles. Where the Company will place Facilities underground, and whenever reasonably practical, the Company shall utilize joint trenching and shared bores or cuts and shall work with other providers (such as telecommunications, cable, gas, electric utilities, or the City), licensees, permittees, and franchisees to reduce as far as possible the number of Right-of-Way disturbances.

4.5.8 To the extent practicable, the Company will install its Facilities in a manner that allows other users to collocate with the Company. This includes installing larger diameter conduit where financially reasonable and making the conduit available for additional facilities upon reasonable terms.

4.5.9 The Public Works Director, or designee (e.g., the City Engineer), will be authorized to approve the use by the Company of such Rights-of-Way requested by the Company, and the final decision regarding the use of the Rights-of-Way will remain in the sole discretion of the Public Works Director or designee in accordance with Federal and State law.

#### 4.6 Emergencies.

4.6.1 City's Direction. During unforeseen emergencies that create a threat to the public health, safety, or welfare, the City may require the Company to promptly remove, relocate,

adjust, or secure its Facilities, at the Company's sole expense. If the Company fails, neglects, or refuses to promptly remove, relocate, adjust, or secure its Facilities, the City may perform such work or cause it to be done at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days. The provisions of this section shall survive the expiration, revocation, or termination of the Franchise.

4.6.2 Company's Determination. In the event that the Company determines that emergency repairs are necessary, the Company shall immediately notify the City of the need for such repairs. The Company may thereafter initiate such emergency repairs, and shall apply for appropriate permits, within forty-eight (48) hours after the emergency is abated.

#### 4.7 Location of Facilities.

4.7.1 As Built. The Company shall provide to the City upon request and at no cost, a copy of all as-built plans, maps, and records, including revealing the final location and condition of its Facilities within the Rights-of-Way. Such records shall be provided in a format reasonably acceptable to the City.

4.7.2 GIS Mapping. The Company shall comply with City requirements regarding geographic information systems mapping for users of the Rights-of-Way that are in effect on the date the permits and authorizations are issued for the affected Facilities.

#### 4.8 Safety and Least Interference.

4.8.1 The Company shall construct, operate, maintain, repair, replace, and remove Facilities in a manner that prevent injury to Persons, the City's property, or property belonging to any other Person. The Company, at its own expense, shall construct, operate, maintain, repair, replace, or remove its Facilities to keep them in good repair and safe condition. Any work on the Facilities shall be properly safeguarded for the prevention of accidents.

4.8.2 The Company's construction, operation, maintenance, repair, replacement, or removal of its Facilities shall be done in a manner that causes the least interference with the public's travel upon the Rights-of-Way and the rights and reasonable convenience of the abutting property owners and residents. The Company's Facilities shall be constructed, operated, maintained, repaired, replaced, and removed in a manner that causes the least interference with sewers, water pipes, City facilities, or other facilities that may have been located in the Rights-of-Way. The Company shall not interfere with travel and use of public places by persons during the construction, operation, maintenance, repair, replacement, or removal of Facilities and shall not obstruct or impede traffic, except to the extent necessary.

4.8.3 The provisions of this section 4.8 shall survive the expiration, revocation, or termination of the Franchise.

4.9 Notice to Private Property Owners. Except in the case of an emergency involving public safety or an outage or service interruption to a large number of users, the Company shall give reasonable advance notice to private property owners or residents located within one hundred

feet (100') of the Company's Facilities of trenching work that may interfere with the use of property.

#### 4.10 Restoration of Property.

4.10.1 The Company, while constructing, operating, maintaining, repairing, replacing, or removing its Facilities shall exercise commercially reasonable efforts to protect adjoining public and private property from damage. If damage occurs, the Company shall coordinate directly with the property owner and shall resolve the issue, consistent with industry practice, in a reasonable timeframe.

4.10.2 Whenever the Company disturbs or damages any Rights-of-Way or adjoining public or private property the Company shall promptly restore, at the Company's own cost, the Rights-of-Way or property to at least its prior condition, excepting normal wear and tear. The Company shall use its best efforts to complete the restoration as soon as practicably possible, considering the nature of the work to be performed, but in no event more than thirty (30) days following completion of the work.

4.10.3 The Company shall be responsible for the maintenance, repair, or reconstruction of any of its work in the Right-of-Way, in a condition acceptable to the City, until the earlier of (a) two years from the completion of the work or (b) until the Right-of-Way in which the work is located is reconstructed, repaved, or resurfaced by the City. In no event will the Company be obligated to address normal wear and tear or other conditions unrelated to a failure of its work or materials. The Company shall endeavor to complete the maintenance, repair, or reconstruction within the time specified by the City, which shall not be less than seventy-two (72) hours. If the Company fails to maintain, repair, or reconstruct the Right-of-Way to the City's satisfaction within the time specified by the City, the City may cause the maintenance, repair, or reconstruction to be done at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

4.10.4 Whenever a new street is completed or an overlay of an existing street has been completed within five (5) years of a newly proposed trench, excavation, bore, or cut, additional roadway restoration shall be required as determined by the Public Works Director or designee. The Company agrees that such additional required roadway restoration may include full-width patching extending five (5) feet beyond the Company's disruption of the Right-of-Way.

4.10.5 The provisions of this section 4.10 shall survive the expiration, revocation, or termination of the Franchise.

4.11 Undergrounding. The Company shall place underground, at the Company's expense unless stated otherwise, all of its Facilities that are located or are to be located above or within the Rights-of-Way of the City in the following cases:

(a) All other existing utilities are required to be placed underground by Federal or State law or regulation or the City Codes;



- (b) The Company is unable to get pole attachment agreement permits from pole owners;
- (c) Underground easements are obtained from developers of new residential areas; or
- (d) When required by City Codes or applicable State or federal law.

4.11.1 Whenever the City may require the undergrounding of all aerial utilities, except electrical utilities, the Company shall underground its aerial Facilities in the manner specified by the City, concurrently with and in the area of the other affected utilities. The location of any such relocated and underground Facilities will be approved by the City, following consultation with the Company. Where other utilities are present and involved in the undergrounding project, the Company shall only be required to pay its fair share of the common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of the Company's Facilities. "Common costs" shall include necessary costs not specifically attributable to the undergrounding of any particular facility, such as costs for common trenching and utility vaults. "Fair share" shall be determined for a project on the basis of the number and size of all other utility facilities being undergrounded.

4.11.2 If an ordinance is passed creating a local improvement district which involves placing underground all utilities, except electrical utilities, including the Company's Facilities which are currently located overhead, the Company shall participate in such underground project and shall remove poles, cables, overhead wires, and other Facilities within such district if requested to do so and place such Facilities underground. If such undergrounding of the Company's Facilities is part of such a project, the costs thereof shall be included in such local improvement district.

4.11.3 In those areas and portions of the City where the transmission or distribution facilities of any utilities providing telephone service and any utilities providing electric service are underground or hereafter are placed underground, then the Company shall likewise construct, operate, and maintain all of its transmission and distribution Facilities underground. Amplifiers and connectors in the Company's transmission and distribution lines may be in appropriate enclosures upon or above the surface of the ground in locations approved by the City, provided that the Company and the City enter into a site specific agreement as detailed in section 4.2. Upon sufficient notice, work shall be done at the same time as other facilities that are placed underground and all work shall be done consistent with City Codes and to minimize impact on streets and neighborhoods.

4.11.4 The Company shall use conduit or its functional equivalent to the greatest extent possible for undergrounding. Cable and conduit shall be utilized which meets the highest industry standards for electronic performance and resistance to interference or damage from environmental factors. The Company shall use and construct, in conjunction and coordination with other utility companies or providers, common trenches for underground construction whenever available and possible.

4.11.5 The provisions of this section 4.11 shall survive the expiration, revocation, or termination of the Franchise.

#### 4.12 Removal or Relocation

4.12.1 Safety and Free Passage. If the City, in its sole discretion, determines that an emergency exists or that a Facility unduly burdens or endangers the safe and free passage of traffic on the Rights-of-Way, the Company shall modify, replace, relocate, remove, or disconnect the Facilities in the time specified by the City's notice. If the Company fails to modify, replace, relocate, remove, or disconnect the Facilities within the time specified by the City or if the City determines that the City must immediately undertake the modification, replacement, relocation, removal, or disconnection, the City may cause the modification, replacement, relocation, removal, or disconnection to be done at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

4.12.2 Movement for City Purposes. For any City project, the City may require the Company to modify, replace, relocate, remove, or disconnect its Facilities at the Company's sole expense, so long as the requirements are applied in a non-discriminatory manner. The City will make a reasonable effort to provide the Company with an alternate location within the Rights-of-Way. The City will endeavor to provide at least sixty (60) days written notice to the Company prior to the modification, replacement, relocation, removal, or disconnection of the Company's Facilities and will attempt to minimize the impact on the Company's Facilities. If the Company fails to modify, replace, relocate, remove, or disconnect the Facilities within the time specified by the City, the City may cause the modification, replacement, relocation, or removal to be done at the Company's sole expense. The City will bill the Company for any expense incurred, including any costs or expenses incurred by the City due to the Company's delay within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

4.12.3 Movement for Other Franchise Holders. If any removal, replacement, modification or disconnection of the Company's Facilities is required to accommodate the construction, operation, or repair of the facilities or equipment of another City franchise holder or user of the Rights-of-Way, the Company shall, after at least thirty (30) days advance written notice, take action to effect the necessary changes requested by the responsible Person. The Company may require that the costs associated with the removal, replacement, modification, or disconnection of the Facilities be paid by the benefited Person, and the Company may require a reasonable deposit of the estimated payment in advance.

4.12.4 When no longer needed to provide its Communications Services, the Company shall not remove any underground Facilities that require excavation, trenching, or other opening of the Rights-of-Way to remove the Facilities. The Company may remove any underground Facilities from the Rights-of-Way installed in a manner such that the Facility can be removed without excavation, trenching, or other opening of the Rights-of-Way.

4.12.5 The provisions of this section 4.12 shall survive the expiration, revocation, or termination of the Franchise.

4.13 Temporary Changes for Other Permittees. At the request of any Person holding a valid permit and upon reasonable advance written notice, the Company shall temporarily raise, lower,

or remove its Facilities as necessary to permit the moving of a building, vehicle, equipment, or other work. The expense of such temporary changes must be paid by the permit holder and the Company may require a reasonable deposit of the estimated payment in advance.

4.14 **Reservation of City's Use of Rights-of-Way.** Nothing in this Franchise shall prevent the City from constructing sewers, grading, paving, repairing, or altering any Rights-of-Way, laying down, repairing, or removing water mains, or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure, or prevent the use and operation of the Company's Facilities.

4.15 **Tree Trimming.** To the extent a City owned tree interferes with the Company's Facilities, the Company may prune or cause to be pruned, using proper pruning practices, the City's tree upon receiving the City's approval, which will not unreasonably be withheld. In the event of an emergency, the Company may trim the tree and thereafter provide the City notice of the emergency and the tree trimming with forty-eight (48) hours.

4.16 **Inspection of Construction and Facilities.** The City may inspect any of the Company's Facilities after forty-eight (48) hours written notice, or, in case of an emergency, upon demand without prior notice.

4.17 **Work by Agents, Contractors, and Subcontractors.** The Company's agents, contractors, and subcontractors shall be properly licensed and bonded in accordance with the City Codes and State law. Work by agents, contractors, and subcontractors is subject to the same restrictions, limitations, and conditions as if the work were performed by the Company. The Company shall be responsible for all work performed by its agents, contractors, and subcontractors as if the work were performed by the Company. The Company shall ensure that all such work is performed in compliance with this Franchise and applicable laws and shall be jointly and severally liable for all damages and correcting all damage caused by any agents, contractors, or subcontractors. The Company is responsible for ensuring that agents, contractors, and subcontractors are familiar with the requirements of this Franchise and applicable laws.

## **Section 5. Fees.**

### **5.1 Recovery of Costs.**

5.1.1 The Company shall be subject to a one-time administrative fee of two thousand dollars (\$2,000.00) for the City's costs relating to the administration of this Franchise. The Company agrees to pay such administrative fee upon acceptance of this Franchise.

5.1.2 The Company shall reimburse the City within thirty (30) days of receiving an itemized billing from the City for incurred costs, itemized by project, for the Company's proportionate share of all actual, identified expenses incurred by the City as a result of the presence of the Company's Facilities in the Rights-of-Way. This may include the City's expenses in planning, constructing, installing, repairing, altering, or maintaining any City facility. Additionally, the Company shall reimburse the City's actual expenses incurred by the City that are directly related to receiving and approving a permit, license, or franchise and to inspecting plans and construction pursuant to this Franchise.

5.2 Allowable Taxes. Nothing provided herein shall exempt or otherwise limit the Company's obligation to pay any applicable tax required by the Marysville Municipal Code or any other applicable law or regulation, so long as such tax is permitted by federal and/or Washington law. The Company's failure to pay any permitted applicable tax required by the Marysville Municipal Code or any other applicable law or regulation shall constitute a material breach of the Franchise.

5.3 In the event that any payment due to the City under this Franchise, except for allowable taxes, is not received by the City by the date due, interest will be charged from the due date at the rate of twelve percent (12%) per annum.

5.4 Acceptance of Payment. No acceptance of any payment by the City shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this Franchise. The Company's payment to the City shall not be construed as an acknowledgement by the Company that the amount paid is the correct amount and the Company reserves the right to subsequently seek to recover any amount of such payments in the event of an erroneous overpayment or for other lawful reasons.

5.5 Pursuant to RCW 35.21.860, the City is precluded from imposing a franchise fee on a "telephone business" as defined in RCW 82.16.010 or a "service provider" as defined in RCW 35.99.010, for the use of the City's Rights-of-Way, except for actual administrative expenses directly related to the franchise or any tax authorized by State law. The Company hereby warrants that its operations, as authorized under this Franchise, are those of a "telephone business" as defined in RCW 82.16.010 or as a "service provider" as defined in RCW 35.99.010. As a result, the City currently lacks the authority to impose any franchise fee under the terms of this Franchise, other than as described herein.

5.6 The City reserves its right to impose a franchise fee, in accordance with State or Federal law, on the Company for purposes other than to recover its administrative expenses, if the Company's operations as authorized by this Franchise change such that the Company's uses of the Rights-of-Way are not those of a "telephone business" as defined in RCW 82.16.010, those of a "service provider" as defined in RCW 35.99.010, or if State or Federal law is amended to allow the imposition of such a franchise fee. The City further reserves the right to require the Company to obtain a separate franchise for its use of City Rights-of-Way to the extent the Company's use is not as a "telephone business" as defined in RCW 82.16.010 or as a "service provider" as defined in RCW 35.99.010.

## **Section 6. Hold Harmless and Indemnity.**

6.1 The Company shall indemnify, defend, and hold the City, its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, costs, and expert witness fees, arising out of or in connection with the construction, operation, maintenance, repair, replacement, and removal of the Company's Facilities or the Company's actions under this Franchise, whether by the Company, its agents, servants, employees, contractors, subcontractors, or assigns, except for injuries and damages caused by the sole negligence of the City, its agents, officers, employees, volunteers, or assigns.

In the event any such claim or demand be presented to or filed with the City, the City shall promptly notify the Company thereof (and in any event prior to the date that Company's rights to defend such claim or demand would be prejudiced), and the Company shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand, provided further, that in the event any suit or action is commenced against the City based upon any such claim or demand, it shall likewise promptly notify the Company thereof, and the Company shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

6.2 Should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of the bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Company and the City, its officers, officials, employees, agents, and volunteers, the Company's liability hereunder shall be only to the extent of the Company's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Company's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

6.3 To the extent not covered by the indemnity requirements of section 6.1, the Company shall indemnify, defend, and hold the City harmless from any and all claims, injuries, damages, losses, or suits against, or payable by, the City arising out of or resulting from, directly or indirectly, the Company's failure to remove, adjust, or relocate any of its Facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the City.

6.4 In various provisions of this Franchise, the Company is obligated to take action at the direction of the City within a specified time (see i.e. and without limitation, section 4.10.3.3, 4.12.1) and the City is thereafter empowered to undertake such actions at the sole expense of the Company if the Company fails to accomplish the action within the specified time. The City's actions in such a situation are termed the "City's Remedial Actions" for purposes of this section. To the extent not covered by the indemnity requirements of section 6.1, the Company shall indemnify, defend, and hold the City, its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, or suits against, or payable by, the City arising out of or resulting from, directly or indirectly, the actions of the City, its officers, officials, employees, agents, and volunteers in undertaking the City's Remedial Actions under this Franchise. The Company and the City agree that the Company's indemnification for the City's Remedial Actions includes indemnification for the sole negligence of the City, its officers, officials, employees, agents, and volunteers and further agree that this indemnification obligation is separate, additional to, and severable from the Company's other indemnification obligations under this Franchise.

6.5 The provisions of this section 6 shall survive the expiration, revocation, or termination of the Franchise.

## **Section 7. Insurance.**

7.1 General Requirement. The Company shall procure and maintain for the duration of this

Franchise, and until all Facilities are removed from Rights-of-Way or abandoned in place, insurance against claims for injuries to persons or damage to property which may arise from or in connection with this Franchise or involve the Company.

7.2 No Limitation. The Company's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Company to the coverage provided by such insurance or otherwise limit the City's recourse to any remedy available at law or equity.

7.3 Minimum Insurance Limits. The Company shall maintain in full force and effect, at its own cost and expense, each of the following policies of insurance:

7.3.1 Commercial General Liability insurance with limits of no less than Five Million dollars (\$5,000,000) per occurrence and Five Million dollars (\$5,000,000) general aggregate for personal injury, bodily injury, and property damage. Coverage shall include but not be limited to: blanket contractual; premises; operations; independent contractors; stop gap liability; personal injury; products and completed operations; broad form property damage; explosion, collapse, and underground; and employer's liability.

7.3.2 Commercial Automobile Liability insurance with minimum combined single limit of Five Million dollars (\$5,000,000) per accident for bodily injury and property damage with respect to each of the Company's owned, hired, and non-owned vehicles assigned to or used in the construction, operation, maintenance, repair, replacement, or removal of its Facilities.

7.3.3 Worker's Compensation insurance as required by the Industrial Insurance laws of the State of Washington.

7.3.4 Excess Liability or Umbrella Coverage in the amount of Two Million dollars (\$2,000,000).

7.4 Endorsements. The Company's insurance policies, excluding Worker's Compensation, are to contain, or be endorsed to contain:

7.4.1 That they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Company's insurance and shall not contribute with it.

7.4.2 That the City, its officers, officials, employees, agents, and volunteers are to be covered as, and have the rights of, additional insureds.

7.5 Verification of Coverage. The Company shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Franchise upon acceptance of this Franchise. The certificate for each insurance policy is to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate for each insurance policy must be on standard forms or on such forms as are consistent with standard industry practices. The Company hereby warrants that its insurance policies satisfy the requirements of this Franchise.

7.6 Acceptability of Insurers. Insurance obtained by the Company is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

7.7 Notice of Cancellation. Provided that the insurer will do so, each policy of insurance shall provide that a written notice of cancellation shall be delivered to the City thirty (30) days in advance of the effective date thereof. Otherwise, the Company shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice. Regardless, the Company shall provide a replacement policy and shall maintain continuous, uninterrupted insurance coverage, in at least the amounts required, for the duration of the Franchise.

7.8 The provisions of this section 7 shall survive the expiration, revocation, or termination of the Franchise.

## **Section 8. Financial Assurances.**

8.1 Surety Bond. No later than thirty (30) days following acceptance of this Franchise, the Company shall establish and provide to the City, as security for the faithful performance by the Company of all of the provisions of this Franchise, a performance bond, from a surety or financial institution acceptable to the City, in the amount of twenty-five thousand dollars (\$25,000).

8.1.1 The performance bond may be drawn upon by the City for purposes including, but not limited to, the following: (1) failure of the Company to pay the City sums due under the terms of this Franchise; (2) reimbursement of costs borne by the City to correct Franchise violations not corrected by the Company; (3) monetary remedies or damages assessed against the Company due to default or breach of Franchise requirements.

8.1.2 The City will give the Company written notice of its intent to withdraw from the surety bond pursuant to this section. Within thirty (30) days following notice that such withdrawal has occurred, the Company shall restore the surety bond to the full amount required by section 8.1. The Company's maintenance of the surety bond shall not be construed to excuse faithful performance by the Company, limit the liability of the Company to the amount of the surety bond, or otherwise limit the City's recourse to any other remedy available at law or in equity.

8.1.3 The Company shall have the right to appeal to the Chief Administrative Official for reimbursement in the event the Company believes that the surety bond was drawn upon improperly. Any funds the City erroneously or wrongfully withdraws from the surety bond shall be returned to the Company.

8.2 Other Bonds. The Company shall comply with any other bonding requirements provided for in the City Codes. Further, if the City reasonably determines that the work covered by an application presents a potential for disruption of traffic, injury, damage, or expense to the City if not correctly and timely completed, the City may require the Company to provide an assurance device, in a form acceptable to the City, prior to issuance of a permit or approval.

## **Section 9. Civil Penalties and Additional Relief.**

9.1 The Company, and any officers, directors, employees, agents, contractors, or other Person acting on behalf of the Company, failing to comply with any of the provisions of this Franchise, shall be subject to a civil penalty and abatement in the manner and to the extent provided for in the City Codes.

9.2 In addition to any penalty which may be imposed by the City, and to the extent that a violation of this Franchise results in damage to City property or Rights-of-Way, the Company shall be responsible for the cost of restoring the affected area to its condition prior to the violation.

9.3 Notwithstanding any other provision herein, the City and the Company may seek legal or equitable relief to enjoin any act or practice and abate any condition, which constitutes or will constitute a violation of the applicable provisions of this Franchise, when civil or criminal penalties are inadequate to effect compliance. In addition to the penalties otherwise set forth in this section 9, the Company and the City acknowledge that any pattern of violations with respect to any material provision of this Franchise, consisting of three (3) or more such violations within a period of twelve (12) consecutive months, may further result in the revocation of any Rights-of-Way use agreement, Rights-of-Way use permit, facilities lease, other such authorization, or this Franchise.

9.4 Nothing in this section shall be construed as limiting any remedies the City or the Company may have, at law or in equity, for enforcement of this Franchise.

## **Section 10. Modifications of Terms and Conditions.**

The City and the Company hereby reserve the right to alter, amend, or modify the terms and conditions of this Franchise and any permit issued thereunder upon written agreement by both parties to such alteration, amendment, or modification. The City Council of the City of Marysville must approve any alteration, amendment, or modification of this Ordinance prior to it being signed by the City.

## **Section 11. Abandonment or Non-Use of Facilities.**

11.1 In the event this Franchise expires, is terminated, or the Company discontinues commercial use of any Facility located in the Rights-of-Way for a period of one hundred eighty (180) consecutive days or longer, the City may, upon written notice to the Company, require removal of any or all such Facilities from the Rights-of-Way within ninety (90) days. If the Company fails to remove the specified Facilities within the time specified, the City may cause removal of the specified Facilities at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

11.2 Notwithstanding any other provision of this Franchise, the City may permit, by written notice, the Company to abandon any or all Facilities in place. The City's written notice will specify a date certain, no earlier than ninety (90) days after the date of the notice, prior to which the Company may remove its Facilities in accordance with this Franchise and after which the



Facilities will be considered abandoned in place. Upon being abandoned in place, the Facilities shall become the property of the City and the Company shall submit to the City an instrument, in writing and approved by the City Attorney, transferring ownership of the Facilities to the City.

11.3 The provisions of this section 11 shall survive the expiration, revocation, or termination of this Franchise.

**Section 12. Severability.**

If any term, provision, condition, or portion of this Franchise shall be held to be invalid or unconstitutional for any reason, the portion declared invalid shall be severable and the remaining portions of this Franchise shall be enforceable unless to do so would be inequitable or would result in a material change in the rights and obligations of the parties hereunder.

**Section 13. Transferability.**

The rights and privileges granted to the Company as provided in this Franchise may only be assigned or transferred to another Person with the prior written approval of the City, which will not be unreasonably withheld, conditioned, or delayed. However, the Company, following thirty (30) days written notice to the City, may assign this Franchise to an Affiliate, provided the Affiliate has the legal, technical, financial, and other qualifications to own, hold, construct, operate, maintain, repair, replace, and remove the Facilities for the purpose of providing Communications Services and agrees, in writing, to be fully liable to the City for compliance with all terms and conditions of this Franchise. The City is under no obligation to investigate the Company's then existing compliance with the Franchise and the failure of the City to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

**Section 14. General Enforcement.**

In the event that the City believes that the Company has not complied with any terms of the Franchise or the City Codes, other than sections 4.6, 4.10.3, or 4.12.1, the City may discuss the violation with the Company or may issue a written notice to cure the default. The City's notice to cure the default will include the actions to be taken to remedy the default and the timeframe, which shall be no less than thirty (30) days, within which the Company should accomplish the actions. The Company will thereafter have the time specified in the notice to cure the default to correct the default or, if the Company believes that the actions cannot be taken within the time specified, respond with a timeline for diligently accomplishing the actions and diligently complete those actions on the identified timeline.

**Section 15. Termination.**

Except as otherwise provided herein, this Franchise may be terminated, without penalty or further liability, as follows:

(a) Upon thirty (30) days written notice by the City if the Company fails to cure a default for payment of amounts due under this Franchise or the City Codes within that thirty (30) day period, provided that the City may not terminate for the non-payment of taxes under section 5.2 if the Company provides written notice to the City that it contests the legality of the taxes

imposed and provides a good faith basis for challenging the legality of the taxes imposed under section 5.2;

(b) Upon thirty (30) days written notice by either party if the other party commits a non-monetary material default and fails to commence curing such default within that thirty (30) day period, or such longer period as may be required to diligently complete a cure commenced within that thirty (30) day period; or

(c) Upon ninety (90) days written notice by the Company for economic reasons or if the location or the Facilities are or become unacceptable under the Company’s design or engineering specifications for its communications system.

**Section 16. Effective Date.**

16.1 This Franchise and the rights, privileges, and authority granted hereunder and the contractual relationship established hereby shall take effect and be in force from and after the effective date of this Franchise.

16.2 The effective date of this Franchise shall be the date of acceptance as specified in section 17, but in no event prior to five days after publication of this Ordinance by summary.

**Section 17. Franchise Acceptance.**

Within forty-five (45) days of the adoption of this Ordinance by the City Council, the Company shall execute and return to the City two fully executed acceptance forms, in the form attached to this Ordinance. In the event the Company fails to accept this Franchise, the Franchise shall be null and void and the Company shall have no rights or privileges hereunder.

**Section 18. Miscellaneous.**

18.1 This Franchise constitutes the entire agreement and understanding between the parties and supersedes all offers, negotiations, and other agreements concerning the subject matter contained herein. Any amendments to this Franchise must be in writing, approved by the City Council, and executed by both parties.

18.2 This Franchise shall be binding on and inure to the benefit of the permitted successors and permitted assignees of the respective parties.

18.3 Any notice or demand required to be given herein shall be made by United States mail or reliable overnight courier to the address of the respective parties set forth below:

To the City:	To the Company:
City of Marysville Attn: Chief Administrative Officer 1049 State Avenue Marysville, WA 98270	Astound Broadband, LLC d/b/a Wave Attn: Byron Springer, EVP 401 Kirkland Parkplace, Suite 500 Kirkland, WA 98033

<p>With a required copy to:</p> <p>City of Marysville                  Attn: City Attorney                  1049 State Avenue                  Marysville, WA 98270</p>	
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The City or the Company may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt.

18.4 This Franchise shall be governed by the laws of the State of Washington.

18.5 In any case where the approval or consent of one party hereto is required, requested, or otherwise to be given under this Franchise, such party shall not unreasonably delay or withhold its approval or consent.

18.6 All amendments and exhibits annexed hereto form material parts of this Franchise.

18.7 This Franchise may be executed in duplicate counterparts, each of which shall be deemed an original.

18.8 Subject to applicable law, all rights and remedies given to the City by this Franchise or retained by the City herein shall be in addition to and cumulative with any and all rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity.

18.9 Venue for any dispute related to this Franchise shall be in Snohomish County Superior Court in Everett, Washington.

18.10 Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party, act toward third persons or the public in any manner that would indicate any such relationship with the other.

18.11 The failure of the either party at any time to require performance by the other of any provision hereof shall in no way affect the right of such party thereafter to enforce the same, nor shall the waiver by such party of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself or any other provision.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE

By: \_\_\_\_\_  
 Jon Nehring, Mayor

Attest:

By: \_\_\_\_\_  
April O'Brien, Deputy City Clerk

Approved as to form:

By: \_\_\_\_\_  
Jon Walker, City Attorney

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_  
(5 days after publication)

**Acceptance of Franchise**

In accordance with and subject to Ordinance No. \_\_\_\_\_, constituting a Franchise Agreement between the City of Marysville (“the City”) and Astound Broadband, LLC, d/b/a Wave (“the Company”), the Company hereby submits this Acceptance of Franchise to the City.

The Company hereby unconditionally accepts and agrees to comply with all terms, provisions, and conditions of the Franchise Agreement.

Enclosed herewith is a certificate of insurance in accordance with Section 7.5 of the Franchise Agreement. Also enclosed herewith is the Company’s check in the amount of \$2,000 in accordance with section 5.1.1 of the Franchise Agreement, which amount is for the City’s costs relating to the administration of the Franchise Agreement.

The Company hereby certifies that the undersigned is a duly authorized officer of the Company with the authority to execute this Acceptance of Franchise.

**Astound Broadband LLC, dba Wave**

**By:** \_\_\_\_\_

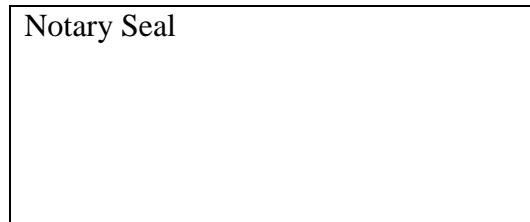
**Name:** \_\_\_\_\_

**Its:** \_\_\_\_\_

State of Washington )  
                                  ss.  
County of King )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.



\_\_\_\_\_  
(Signature of Notary)  
\_\_\_\_\_  
(Legibly Print or Stamp Name of Notary)  
Notary Public in and for the State of Washington  
My appointment expires: \_\_\_\_\_

# *Index #13*

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/9/17**

<b>AGENDA ITEM:</b>	
MCIMetro Access Transmission Services Corp. Telecommunications Franchise	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Colin Olivers	
<b>DEPARTMENT:</b>	
Legal	
<b>ATTACHMENTS:</b>	
Proposed Franchise	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
N/A	N/A
<b>SUMMARY:</b>	

MCIMetro Access Transmission Services Corp. (dba “Verizon Access Transmission Services”) has approached the City for a franchise to install fiber optic telecommunications facilities in the City rights-of-way. Legal staff worked off of an existing telecommunications franchise and updated and added language to conform to current practices. From this updated starting point, City staff and Verizon Access Transmission Services have negotiated the attached proposed franchise. The agreement is effective for an initial term ending December 31, 2022 and will automatically renew for an additional five years unless either party elects for the franchise to terminate. The proposed franchise is substantially similar to the proposed franchise ordinance for Astound Broadband, LLC (dba “Wave”).

**RECOMMENDED ACTION:**

City staff recommends that the City Council approve, and authorize the Mayor to execute, the proposed franchise.

**CITY OF MARYSVILLE**  
**Marysville, Washington**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, SETTING FORTH THE AGREEMENT BETWEEN THE CITY OF MARYSVILLE AND MCIMETRO ACCESS TRANSMISSION SERVICES CORP., A DELAWARE CORPORATION, D/B/A VERIZON ACCESS TRANSMISSION SERVICES, GRANTING VERIZON ACCESS TRANSMISSION SERVICES A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, AND REMOVE TELECOMMUNICATIONS FACILITIES WITHIN CITY RIGHTS-OF-WAY.

WHEREAS, MCImetro Access Transmission Services Corp, a Delaware corporation d/b/a Verizon Access Transmission Services (the “Company”) has applied for a nonexclusive franchise to construct, operate, maintain, repair, replace, and remove wired telecommunications facilities on Rights-of-Way within the City; and

WHEREAS, the Company and the City have engaged in negotiations regarding the Company’s right to utilize the City Rights-of-Way; and

WHEREAS, the City will authorize the Company to utilize the City Rights-of-Way subject to certain conditions and restrictions; and

WHEREAS, RCW 35A.47.040 and Chapter 35.99 RCW authorize the City to grant nonexclusive master permits or franchises for telecommunications facilities in the City Rights-of-Way;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS AND THE PARTIES DO HEREBY AGREE AS FOLLOWS:

**Section 1. Definitions.**

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings stated in this section. When consistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. To the extent not defined in this section, words shall be given their common and ordinary meaning. The word “shall” is always mandatory and not merely directory.

1.1 “Affiliate” means any corporate entity that (1) the Company owns or controls, (2) the Company is owned or controlled by, or (3) is under common ownership with the Company. Any entity in which the Company has ownership of five percent (5%) or more of the equity ownership (either voting, control, or value) or in which the Company has actual working control, in whatever manner exercised, is an Affiliate. Both the entity owned or controlled and the entity owning or controlling are Affiliates of each other.



1.2 “Cable Television Service” means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, which is required for the selection or use of the video programming or other programming service.

1.3 “City” means the City of Marysville, Washington, and all the territory within its present and future boundaries and including any area over which the City exercises jurisdiction.

1.4 “City Codes” means the Marysville Municipal Code (“MMC”) and all ordinances, resolutions, standards, regulations, procedures, and policies of the City, all as currently existing or as hereafter amended or adopted.

1.5 “Communications Services” means telecommunications services or capacity provided by the Company using its Facilities, either directly or by its Affiliates, including, but not limited to, the transmission of voice, data, or other electronic information by wire, fiber optic cable, or other similar means. For purposes of this subsection, “information” means knowledge or intelligence represented by writing, signs, signals, pictures, sounds, or any other symbols. Communications Services does not include Cable Television Service or Wireless Telecommunications Services.

1.6 “Facilities” means the Company’s telecommunications system constructed and operated within the City’s Rights-of-Way. Facilities shall include all wires, fiber optic cables, cables, amplifiers, conductors, lines, conduits, ducts, manholes, pedestals, meters, and any associated converters, equipment, or other appurtenances and facilities for the purpose of providing Communications Services under this Franchise.

1.7 “Franchise” means the nonexclusive rights, privileges, obligations, and authority granted to the Company under this Ordinance. The Franchise may also be referred to as the “Master Permit” or the “Agreement.”

1.8 “Person” means any individual, corporation, partnership, association, joint venture, organization, or entity of any kind and the lawful trustee, successor, assignee, transferee, or personal representative thereof.

1.9 “Rights-of-Way” means the surface of any land and any space above or below the land previously or hereafter acquired by or dedicated to the public or the City for the purposes, in whole or in part, of public travel. Rights-of-Way includes, but is not limited to, public streets, roadways, highways, avenues, lanes, alleys, bridges, sidewalks, easements, and similar public property and areas located within the City and under the City’s jurisdiction. Rights-of-Way, for purposes of this Franchise, shall only include those areas that have been improved and/or maintained by the City. Rights-of-Way shall not include State highways. Rights-of-Way shall not include structures, including poles and conduits, located within the Rights-of-Way.

1.10 “Wireless Telecommunications Services” means the wireless transmission of voice, data, or other electronic information by antennas and radio units whether macrocells, microcells, small cells, distributed antenna systems, or other similar means and associated support facilities including towers, poles, and base stations. Wireless Telecommunications Services does not include providing Communications Services to a site for connection to Wireless Telecommunications Services.

## **Section 2. Grant of Franchise.**

2.1 The City hereby grants the Company a Franchise to use and occupy Rights-of-Way for the purpose of providing Communications Services, including, without limitation, the right to construct, operate, maintain, repair, replace, and remove Facilities in accordance with this Ordinance. The Company and the City recognize that the Company intends, pursuant to this Franchise, to operate and maintain a wired telecommunications system. This Franchise does not grant the Company the right to utilize Rights-of-Way to construct, operate, maintain, repair, replace, or remove any facilities to provide Wireless Telecommunications Services. However, pursuant to this Franchise, the Company may provide Communications Services as fronthaul and backhaul support for Wireless Telecommunications Services located on private property or otherwise constructed, operated, or maintained pursuant to a valid franchise from the City. In order to provide any other services over the Facilities, the Company shall first be required to obtain any additional governmental authorizations required by law.

2.2 In exercising its rights and obligations under this Franchise, the Company shall comply with all lawfully enacted City Codes. In the event of a conflict between the provisions of this Franchise and the City Codes, the more restrictive provision shall control, provided that if such more restrictive provision is contained in this Franchise and is inconsistent with a City ordinance adopted after the effective date of this ordinance or any State or Federal law or regulation, such provision shall not apply. In addition, in exercising its rights and obligations under this Franchise, the Company shall comply with all applicable State and Federal laws and regulations.

2.3 The provisions of this Franchise are subject to the lawful exercise of the City's police powers upon reasonable notice to the Company and nothing contained in this Franchise shall be deemed to affect the City's authority to exercise its police powers to the fullest extent afforded by the Washington State constitution and State law. In accepting this Franchise, the Company acknowledges that its rights hereunder are subject to the police power of the City to adopt and enforce, from time to time and in a manner the City deems reasonable, general ordinances necessary for the safety, health, and welfare of the public. This Franchise shall not be interpreted to prevent the City from imposing additional lawful conditions, including additional statutorily authorized compensation for the use of the Rights-of-Way should the Company provide services other than Communications Services.

2.4 This Franchise does not grant the Company any vested right to use any portion of the Rights-of-Way except for locations approved by the City and then subject to the terms and conditions of this Franchise and the City's approval.

2.5 The authority granted herein to the Company is a limited authorization to construct, operate, maintain, repair, replace, and remove Facilities in the Rights-of-Way to provide Communications Services and shall not include or be a substitute for:

2.5.1 Any other permit or authorization required for the privilege of transacting and carrying on a business within the City, including, but not limited to, a City business license; or

2.5.2 Any permit, agreement, authorization, or condition that may be required by the City for using the Rights-of-Way in connection with operations on or in the Rights-of-Way or

public property, such as Rights-of-Way use permits and approved traffic control plans; or

2.5.3 Any permit, agreement, or authorization for occupying any other property of the City or private entity to which access is not specifically granted by this Franchise, including, but not limited to, permits, agreements, or authorizations for placing devices on poles, in conduits, or in or on other structures.

2.6 This Franchise only conveys limited rights and interests as to the Rights-of-Way in which the City has an actual interest. The Franchise is not a warranty of title or interest, does not provide the Company with any representation as to any location of a Right-of-Way or the nature of the City's interest in any Rights-of-Way, and does not provide the Company with any interest in any particular location within the Rights-of-Way. The Franchise does not grant the Company any right to install any Facilities on any City property other than Rights-of-Way, upon any private property without the owner's consent, or upon any public or privately owned utility poles or conduits. To the extent the Company's use of a Right-of-Way is inconsistent with the terms, conditions, or provisions by which the Right-of-Way was created, dedicated, or is presently used, the Franchise grants the Company no right to construct, operate, maintain, repair, replace, or remove Facilities from that Right-of-Way.

2.7 This Franchise shall not be construed as to deprive the City of any rights or privileges that the City now has or may hereafter have to regulate the use and control of the Rights-of-Way and public property. Nothing in this Franchise shall limit or expand the City's right of eminent domain under State law and the Company acknowledges that its use of the Rights-of-Way shall have no value. If at any time the City exercises its authority to vacate all or any portion of any Right-of-Way, the City shall not be liable for any damages or loss to the Company because of such vacation. The City may, upon ninety (90) days written notice to the Company, terminate this Franchise with respect to any such vacated area. The City, when vacating a Right-of-Way where the Company has lawfully placed its Facilities, may, if practicable, reserve an easement for the Company's continued use and enjoyment.

2.8 The rights and privileges granted under this Franchise are not exclusive. The Franchise is subject to all prior rights, interests, easements, or licenses granted by the City or its predecessors to any Person to use any property, Rights-of-Way, easement, right, interest, or license. The City reserves the right to approve the use of Rights-of-Way for any purpose not incompatible with the Company's rights under this Franchise. The City reserves the right to grant additional franchises upon the same or similar terms at any time and to any Person, provided, however, that such additional grants will not operate to materially modify, revoke, or terminate any rights granted to the Company under this Franchise. The grant of any additional franchise alone shall not constitute a modification, revocation, or termination of rights previously granted to the Company.

2.9 This Franchise does not establish any priority for the use of the Rights-of-Way by the Company or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the Rights-of-Way, the first priority shall be to the City in the performance of its various functions, the second priority shall be to the public generally, and thereafter the City, in exercise of its powers, shall determine priority between users.

2.10 To the extent that any of the Rights-of-Way within the City are a part of the State highway system and are governed by the provisions of Chapter 47.24 RCW and applicable Washington State Department of Transportation regulations, the Company shall comply with said requirements in addition to City Codes. The Company shall correct any noncompliant Facilities identified by the City or by any other local, State, or Federal governmental entity.

### **Section 3. Term.**

3.1 Term. This Franchise shall be in effect from the date of acceptance, as set forth in section 17, until December 31, 2022, unless earlier terminated or revoked.

3.2 Renewal. This Franchise will automatically renew for an additional five (5) year period, upon the same terms and conditions, unless either party, prior to October 1, 2022, informs the other in writing that it wants the Franchise to expire on December 31, 2022.

3.3 Failure to Renew. If neither party indicates its desire for the Franchise to expire as provided in section 3.2 and the parties fail to formally renew this Franchise prior to December 31, 2027, the Franchise will automatically renew month to month until formally renewed or until either party gives written notice, at least ninety (90) days in advance, of its intent to have the Franchise expire.

### **Section 4. Use of Rights-of-Way.**

4.1 Installation of Facilities. Subject to the City Codes, the Company may construct, operate, maintain, repair, replace, and remove its Facilities in, over, under, across, and along the City's Rights-of-Way, as necessary and appurtenant to the provision of its Communications Services.

4.2 Site Specific Agreements. Prior to constructing, installing, or operating any Facility on any City owned structure within a Right-of-Way or installing any Facility which will occupy more than a de minimis amount of the surface of a Right-of-Way (i.e. a fiber optic cable protruding), the Company must first enter into a site specific agreement with the City in a form agreed to by the Parties. Without limitation, such Facilities may include, but not be limited to, utility poles, monopoles, cell towers, vaults, and power supplies. The City has sole discretion to enter into a site specific agreement and may refuse to do so, among other reasons, where another facility is available for co-location or where a Facility at the given location is not necessary to the Company's provision of Communications Services.

4.3 Permits Required for Construction. Prior to doing any work in the Rights-of-Way, the Company shall apply for, and obtain, appropriate permits from the City including Right-of-Way permits and construction permits. As part of the permitting or approval process, the City may impose, in addition to the requirements contained in this Franchise, such reasonable conditions and regulations as are necessary (1) to protect any structures in the Rights-of-Way and the public's use of the Rights-of-Way for pedestrian and vehicular traffic; (2) to provide for the proper restoration of the Rights-of-Way; and (3) to protect the public health, safety, and welfare.

4.3.1 Applications for any required permits or authorizations shall be made, processed, and approved in accordance with applicable City Codes in effect at the time of application. The

Company shall assure that all applications, whether submitted by the Company, its employees, agents, or contractors clearly identifies that the work is being done for the benefit of the Company and pursuant to this Franchise.

4.3.2 All permits or authorizations issued for the Company's Facilities or related to its Communications Services are subject to the provisions of this Franchise and the Company, its employees, agents, or contractors shall comply with the provisions of this Franchise whether incorporated into such permit or authorization or not.

4.3.3 The Company shall pay all generally applicable fees for the permit or authorization in accordance with the City Codes in effect at the time of application.

4.3.4 The City may reasonably require the Company's Facilities be installed at a particular time, at a particular place, or in a particular manner as a condition of access to a particular Right-of-Way and may deny access if the Company is not willing to comply with the City's reasonable requirements.

4.3.5 If the City reasonably determines that the work covered by an application presents a potential for disruption of traffic, injury, damage, or expense to the City if not correctly and timely completed, the City may require the Company to provide an assurance device, in a form acceptable to the City, prior to issuance of a permit or approval. Such project specific assurance device will be in addition to any general assurance devices required by this Franchise.

4.3.6 The City, following advance written notice of not less than thirty (30) days, may require the Company, at its own expense, to modify or remove any Facilities not authorized by this Franchise or installed without prior City approval. The City may remove the Facilities at the Company's sole expense if the Company fails to do so within the time period established by the City.

#### 4.4 General Standards.

4.4.1 All work authorized and required hereunder shall be done in a safe, thorough, and workmanlike manner. All work authorized and required hereunder shall comply with the City permit or authorization, City Codes, and Federal and State law and regulations.

4.4.2 All installation of the Facilities shall be durable and installed in accordance with good engineering practices and industry standards in effect on the date the permits and authorizations are issued for the affected Facilities.

4.4.3 The Company, its employees, agents, and contractors shall comply with all applicable Federal, State, and City safety requirements, rules, regulations, laws, and practices in effect on the date the permits and authorizations are issued for the affected Facilities. By way of illustration and not limitation, this includes the National Electric Code, National Electrical Safety Code, and Occupational Safety and Health Administration (OSHA) Standards.

4.4.4 The Company represents that it is familiar with Chapter 19.122 RCW and understands and will comply with local procedures and practices relating to the one call locator

service program. The Company and the City shall each comply with their respective obligations pursuant to Chapter 19.122 RCW.

4.5 Coordination. The Company agrees to cooperate with the City's Public Works Department to identify and evaluate the portions of Rights-of-Way necessary for the Company to serve its customers. Priority shall be given to use of those portions of Rights-of-Way where construction can be coordinated with other City and private construction activities, which will least impact the existing condition of the Rights-of-Way, will least impact traffic during construction, and will least impact adjacent neighborhoods during construction and after installation. Sources for planned City and private construction activities include the City's Capital Facilities Plan, Comprehensive Plan, Comprehensive Utility Plan, written construction and planning schedules, and pending development, right-of-way, and construction applications.

4.5.1 Thirty (30) days after acceptance of this Franchise and at least annually thereafter, the Company shall submit to the City's Public Works Department a plan, in a format specified by the Department, that shows all major work anticipated to be done in the Rights-of-Way in the next five (5) years. The City will utilize the plan to identify conflicts and opportunities for coordination between users of the Rights-of-Way. The Company's plan shall be informational only and shall not obligate the Company to undertake any particular project or work. The Company shall identify any portions of its plan that the Company in good faith believes is not subject to disclosure under Chapter 42.56 RCW, shall mark such portions "Confidential," and shall provide a citation to the statutory basis for non-disclosure. The City will exercise its sole legal judgment in responding to a public records request. The City will endeavor to provide the Company an opportunity to obtain a court order preventing disclosure in the event the City intends to disclose a portion of the Company's plan marked "Confidential."

4.5.2 The City adopts a Capital Facilities Plan from time to time, which identifies the roadway projects that the City anticipates constructing during the term of the Capital Facilities Plan. The City will provide the Company a copy of the City's Capital Facilities Plan after acceptance of this Franchise and after adoption of an updated plan during the term of this Franchise.

4.5.3 Within thirty (30) days of acceptance of this Franchise, the Company shall provide the City an email address for the City to add to an email list. The City will communicate substantial (more than 500 lineal feet) roadway projects to this email list in order to provide the Company an opportunity to plan to install Facilities with minimal interruption.

4.5.4 Access to Open Trenches.

4.5.4.1 The Company will be entitled to reasonable access to open City utility trenches, provided that such access does not interfere with the City's placement of utilities or increase the cost to the City thereby. The Company shall pay the City the actual cost to the City resulting from providing the Company access to an open trench, including without limitation the pro rata share of the costs of access to an open trench and any costs associated with the delay of the completion of a public works project.

4.5.4.2 The Company shall provide the City and other utility providers or franchise holders access to its open trenches, provided that: (1) such access does not interfere

with the Company's Facilities, (2) the other utility provider or franchise holder agrees to reasonable terms of use, including reasonable costs or fees, and (3) the other utility provider or franchise holder has agreed to similar terms to provide access to its trenches.

4.5.4.3 The City will use reasonable efforts to include the Company in any platting process within the City and will exercise reasonable efforts to include, as a condition of issuing a permit for open trenching to any utility or developer, that: (a) the utility or developer give the Company at least fourteen (14) days advance written notice of the availability of the open trench and (b) that the utility or developer provide the Company with reasonable access to the open trench.

4.5.5 If the Company receives email notice of a substantial roadway project and fails to coordinate installation of its Facilities and thereafter seeks to trench, excavate, bore, or cut the street or overlay within five (5) years, the Public Works Director or designee may require additional roadway restoration. The Company agrees that such additional required roadway restoration may include full-width patching extending five (5) feet beyond the Company's disruption of the Right-of-Way.

4.5.6 Subject to receiving reasonable advance written notice, the Company shall make reasonable efforts to have a representative attend and participate in meetings of the City regarding Rights-of-Way issues that may impact the Company's Facilities.

4.5.7 In all cases, the Company shall utilize existing poles and conduit wherever possible and shall not install new poles. Where the Company will place Facilities underground, and whenever reasonably practical, the Company shall utilize joint trenching and shared bores or cuts and shall work with other providers (such as telecommunications, cable, gas, electric utilities, or the City), licensees, permittees, and franchisees to reduce as far as possible the number of Right-of-Way disturbances.

4.5.8 To the extent practicable, the Company will install its Facilities in a manner that allows other users to collocate with the Company. This includes installing larger diameter conduit where financially reasonable and making the conduit available for additional facilities upon reasonable terms.

4.5.9 The Public Works Director, or designee (e.g., the City Engineer), will be authorized to approve the use by the Company of such Rights-of-Way requested by the Company, and the final decision regarding the use of the Rights-of-Way will remain in the sole discretion of the Public Works Director or designee in accordance with Federal and State law.

#### 4.6 Emergencies.

4.6.1 City's Direction. During unforeseen emergencies that create a threat to the public health, safety, or welfare, the City may require the Company to promptly remove, relocate, adjust, or secure its Facilities, at the Company's sole expense. If the Company fails, neglects, or refuses to promptly remove, relocate, adjust, or secure its Facilities, the City may perform such work or cause it to be done at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City

within thirty (30) days. The provisions of this section shall survive the expiration, revocation, or termination of the Franchise.

4.6.2 Company's Determination. In the event that the Company determines that emergency repairs are necessary, the Company shall immediately notify the City of the need for such repairs. The Company may thereafter initiate such emergency repairs, and shall apply for appropriate permits, within forty-eight (48) hours after the emergency is abated.

#### 4.7 Location of Facilities.

4.7.1 As Built. The Company shall provide to the City upon request and at no cost, a copy of all as-built plans, maps, and records, including revealing the final location and condition of its Facilities within the Rights-of-Way. Such records shall be provided in a format reasonably acceptable to the City.

4.7.2 GIS Mapping. The Company shall comply with City requirements regarding geographic information systems mapping for users of the Rights-of-Way that are in effect on the date the permits and authorizations are issued for the affected Facilities.

#### 4.8 Safety and Least Interference.

4.8.1 The Company shall construct, operate, maintain, repair, replace, and remove Facilities in a manner that prevent injury to Persons, the City's property, or property belonging to any other Person. The Company, at its own expense, shall construct, operate, maintain, repair, replace, or remove its Facilities to keep them in good repair and safe condition. Any work on the Facilities shall be properly safeguarded for the prevention of accidents.

4.8.2 The Company's construction, operation, maintenance, repair, replacement, or removal of its Facilities shall be done in a manner that causes the least interference with the public's travel upon the Rights-of-Way and the rights and reasonable convenience of the abutting property owners and residents. The Company's Facilities shall be constructed, operated, maintained, repaired, replaced, and removed in a manner that causes the least interference with sewers, water pipes, City facilities, or other facilities that may have been located in the Rights-of-Way. The Company shall not interfere with travel and use of public places by persons during the construction, operation, maintenance, repair, replacement, or removal of Facilities and shall not obstruct or impede traffic, except to the extent necessary.

4.8.3 The provisions of this section 4.8 shall survive the expiration, revocation, or termination of the Franchise.

4.9 Notice to Private Property Owners. Except in the case of an emergency involving public safety or an outage or service interruption to a large number of users, the Company shall give reasonable advance notice to private property owners or residents located within one hundred feet (100') of the Company's Facilities of work that may interfere with the use of property.

#### 4.10 Restoration of Property.



4.10.1 The Company, while constructing, operating, maintaining, repairing, replacing, or removing its Facilities shall protect adjoining public and private property from damage. If damage occurs, the Company shall promptly notify the property owner within twenty-four (24) hours of notice or discovery of any such damage.

4.10.2 Whenever the Company disturbs or damages any Rights-of-Way or adjoining public or private property the Company shall promptly restore, at the Company's own cost, the Rights-of-Way or property to at least its prior condition, excepting normal wear and tear. The Company shall use all reasonable efforts to complete the restoration as soon as practicably possible, considering the nature of the work to be performed, but in no event more than thirty (30) days following completion of the work.

4.10.3 The Company shall be responsible to maintain, repair, or reconstruct the site of any work in the Right-of-Way, in a condition acceptable to the City, until the Right-of-Way is reconstructed, repaved, or resurfaced by the City.

4.10.3.1 In the event that the Company's work, restoration work, subsurface material, pavement, or patch should become depressed, broken, or fail in any way within two (2) years following the completion of the work, normal wear and tear excepted, the Company shall repair, restore, or cause to be repaired or restored, such condition to the reasonable satisfaction of the City.

4.10.3.2 The repair or restoration shall be completed within the time specified by the City, which shall not be less than seventy-two (72) hours.

4.10.3.3 If the Company fails to repair or restore the Right-of-Way to the City's satisfaction within the time specified by the City, the City may cause the repair or restoration to be done at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

4.10.4 Whenever a new street is completed or an overlay of an existing street has been completed within five (5) years of a newly proposed trench, excavation, bore, or cut, additional roadway restoration shall be required as determined by the Public Works Director or designee. The Company agrees that such additional required roadway restoration may include full-width patching extending five (5) feet beyond the Company's disruption of the Right-of-Way.

4.10.5 The provisions of this section 4.10 shall survive the expiration, revocation, or termination of the Franchise.

4.11 Undergrounding. The Company shall place underground, at the Company's expense unless stated otherwise, all of its Facilities that are located or are to be located above or within the Rights-of-Way of the City in the following cases:

(a) All other existing utilities are required to be placed underground by Federal or State law or regulation or the City Codes;

(b) The Company is unable to get pole attachment agreement permits from pole owners;

- (c) Underground easements are obtained from developers of new residential areas; or
- (d) When required by City Codes or applicable State or federal law.

4.11.1 Whenever the City may require the undergrounding of aerial utilities, the Company shall underground its aerial Facilities in the manner specified by the City, concurrently with and in the area of the other affected utilities. The location of any such relocated and underground Facilities will be approved by the City, following consultation with the Company. Where other utilities are present and involved in the undergrounding project, the Company shall only be required to pay its fair share of the common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of the Company's Facilities. "Common costs" shall include necessary costs not specifically attributable to the undergrounding of any particular facility, such as costs for common trenching and utility vaults. "Fair share" shall be determined for a project on the basis of the number and size of all other utility facilities being undergrounded.

4.11.2 If an ordinance is passed creating a local improvement district which involves placing underground utilities including the Company's Facilities which are currently located overhead, the Company shall participate in such underground project and shall remove the Company's poles, cables, overhead wires, and other Facilities within such district if requested to do so and place such Facilities underground. If such undergrounding of the Company's Facilities is part of such a project, the costs thereof shall be included in such local improvement district.

4.11.3 In those areas and portions of the City where the transmission or distribution facilities of any utilities providing telephone service and any utilities providing electric service are underground or hereafter are placed underground, then the Company shall likewise construct, operate, and maintain all of its transmission and distribution Facilities underground. Amplifiers and connectors in the Company's transmission and distribution lines may be in appropriate enclosures upon or above the surface of the ground in locations approved by the City, provided that the Company and the City enter into a site specific agreement as detailed in section 4.2. Upon sufficient notice, work shall be done at the same time as other facilities that are placed underground and all work shall be done consistent with City Codes and to minimize impact on streets and neighborhoods.

4.11.4 The Company shall use conduit or its functional equivalent to the greatest extent possible for undergrounding. Cable and conduit shall be utilized which meets the highest industry standards for electronic performance and resistance to interference or damage from environmental factors. The Company shall use and construct, in conjunction and coordination with other utility companies or providers, common trenches for underground construction whenever available and possible.

4.11.5 The provisions of this section 4.11 shall survive the expiration, revocation, or termination of the Franchise.

#### 4.12 Removal or Relocation

4.12.1 Safety and Free Passage. If the City, in its sole discretion, determines that an emergency exists or that a Facility unduly burdens or endangers the safe and free passage of traffic on the Rights-of-Way, the Company shall modify, replace, relocate, remove, or disconnect the Facilities in the time specified by the City's notice. If the Company fails to modify, replace, relocate, remove, or disconnect the Facilities within the time specified by the City or if the City determines that the City must immediately undertake the modification, replacement, relocation, removal, or disconnection, the City may cause the modification, replacement, relocation, removal, or disconnection to be done at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

4.12.2 Movement for City Purposes. For any City project, the City may require the Company to modify, replace, relocate, remove, or disconnect its Facilities at the Company's sole expense. The City will make a reasonable effort to provide the Company with an alternate location within the Rights-of-Way. The City will endeavor to provide at least ninety (90) days written notice to the Company prior to the modification, replacement, relocation, removal, or disconnection of the Company's Facilities and will attempt to minimize the impact on the Company's Facilities. If the Company fails to modify, replace, relocate, remove, or disconnect the Facilities within the time specified by the City, the City may cause the modification, replacement, relocation, or removal to be done at the Company's sole expense. The City will bill the Company for any expense incurred, including any costs or expenses incurred by the City due to the Company's delay within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

4.12.3 Movement for Other Franchise Holders. If any removal, replacement, modification or disconnection of the Company's Facilities is required to accommodate the construction, operation, or repair of the facilities or equipment of another City franchise holder or user of the Rights-of-Way, the Company shall, after at least thirty (30) days advance written notice, take action to effect the necessary changes requested by the responsible Person. The Company may require that the costs associated with the removal, replacement, modification, or disconnection of the Facilities be paid by the benefited Person, and the Company may require a reasonable deposit of the estimated payment in advance.

4.12.4 When no longer needed to provide its Communications Services, the Company shall not remove any underground Facilities that require excavation, trenching, or other opening of the Rights-of-Way to remove the Facilities. The Company may remove any underground Facilities from the Rights-of-Way installed in a manner such that the Facility can be removed without excavation, trenching, or other opening of the Rights-of-Way.

4.12.5 The provisions of this section 4.12 shall survive the expiration, revocation, or termination of the Franchise. RCW 35.99.060 shall apply to any instance under this Franchise where the Company is required to remove or relocate its Facilities in whole or in part.

4.13 Temporary Changes for Other Permittees. At the request of any Person holding a valid permit and upon reasonable advance written notice, the Company shall temporarily raise, lower,

or remove its Facilities as necessary to permit the moving of a building, vehicle, equipment, or other work. The expense of such temporary changes must be paid by the permit holder and the Company may require a reasonable deposit of the estimated payment in advance.

4.14 **Reservation of City's Use of Rights-of-Way.** Nothing in this Franchise shall prevent the City from constructing sewers, grading, paving, repairing, or altering any Rights-of-Way, laying down, repairing, or removing water mains, or constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure, or prevent the use and operation of the Company's Facilities.

4.15 **Tree Trimming.** To the extent a City owned tree interferes with the Company's Facilities, the Company may prune or cause to be pruned, using proper pruning practices, the City's tree upon receiving the City's approval, which will not unreasonably be withheld. In the event of an emergency, the Company may trim the tree and thereafter provide the City notice of the emergency and the tree trimming with forty-eight (48) hours.

4.16 **Inspection of Construction and Facilities.** The City may inspect any of the Company's Facilities after forty-eight (48) hours written notice, or, in case of an emergency, upon demand without prior notice.

4.17 **Work by Agents, Contractors, and Subcontractors.** The Company's agents, contractors, and subcontractors shall be properly licensed and bonded in accordance with the City Codes and State law. Work by agents, contractors, and subcontractors is subject to the same restrictions, limitations, and conditions as if the work were performed by the Company. The Company shall be responsible for all work performed by its agents, contractors, and subcontractors as if the work were performed by the Company. The Company shall ensure that all such work is performed in compliance with this Franchise and applicable laws and shall be jointly and severally liable for all damages and correcting all damage caused by any agents, contractors, or subcontractors. The Company is responsible for ensuring that agents, contractors, and subcontractors are familiar with the requirements of this Franchise and applicable laws.

## **Section 5. Fees.**

### **5.1 Recovery of Costs.**

5.1.1 The Company shall be subject to a one-time administrative fee of two thousand dollars (\$2,000.00) for the City's costs relating to the administration of this Franchise. The Company agrees to pay such administrative fee upon acceptance of this Franchise.

5.1.2 The Company shall reimburse the City within thirty (30) days of receiving an itemized billing from the City for incurred costs, itemized by project, for the Company's proportionate share of all actual, identified expenses incurred by the City as a result of the presence of the Company's Facilities in the Rights-of-Way. This may include the City's expenses in planning, constructing, installing, repairing, altering, or maintaining any City facility. Additionally, the Company shall reimburse the City's expenses related to review, inspection, supervision, or enforcement of the Company's activities pursuant to this Franchise.

5.2 Allowable Taxes. Nothing provided herein shall either expand, exempt, or otherwise limit the Company's obligation to pay any applicable tax required by the Marysville Municipal Code or any other applicable law or regulation, provided that the Company shall only be obligated to pay taxes and fees that may be properly assessed by the City under applicable Federal and State laws and regulations. The Company's failure to pay any applicable tax required by the Marysville Municipal Code or any other applicable law or regulation shall constitute a material breach of the Franchise.

5.3 In the event that any payment due to the City under this Franchise, except for allowable taxes, is not received by the City by the date due, interest will be charged from the due date at the rate of twelve percent (12%) per annum.

5.4 Acceptance of Payment. No acceptance of any payment by the City shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this Franchise. The Company's payment to the City shall not be construed as an acknowledgement by the Company that the amount paid is the correct amount and the Company reserves the right to subsequently seek to recover any amount of such payments in the event of an erroneous overpayment or for other lawful reasons.

5.5 Pursuant to RCW 35.21.860, the City is precluded from imposing a franchise fee on a "telephone business" as defined in RCW 82.16.010 or a "service provider" as defined in RCW 35.99.010, for the use of the City's Rights-of-Way, except for actual administrative expenses directly related to the franchise or any tax authorized by State law. The Company hereby warrants that its operations, as authorized under this Franchise, are those of a "telephone business" as defined in RCW 82.16.010 or as a "service provider" as defined in RCW 35.99.010. As a result, the City currently lacks the authority to impose any franchise fee under the terms of this Franchise, other than as described herein.

5.6 The City reserves its right to impose a franchise fee, in accordance with State or Federal law, on the Company for purposes other than to recover its administrative expenses, if the Company's operations as authorized by this Franchise change such that the Company's uses of the Rights-of-Way are not those of a "telephone business" as defined in RCW 82.16.010, those of a "service provider" as defined in RCW 35.99.010, or if State or Federal law is amended to allow the imposition of such a franchise fee. The City further reserves the right to require the Company to obtain a separate franchise for its use of City Rights-of-Way to the extent the Company's use is not as a "telephone business" as defined in RCW 82.16.010 or as a "service provider" as defined in RCW 35.99.010.

## **Section 6. Hold Harmless and Indemnity.**

6.1 The Company shall indemnify, defend, and hold the City, its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, costs, and expert witness fees, arising out of or in connection with the construction, operation, maintenance, repair, replacement, and removal of the Company's Facilities or the Company's actions under this Franchise, whether by the Company, its agents, servants, employees, contractors, subcontractors, or assigns, except for injuries and damages

caused by the sole negligence of the City and as otherwise provided in RCW 4.24.115.

6.2 Should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of the bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Company and the City, its officers, officials, employees, agents, and volunteers, the Company's liability hereunder shall be only to the extent of the Company's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Company's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

6.3 The Company shall indemnify, defend, and hold the City harmless from any and all claims, injuries, damages, losses, or suits against, or payable by, the City arising out of or resulting from, directly or indirectly, the Company's failure to remove, adjust, or relocate any of its Facilities in the Rights-of-Way in a timely manner in accordance with any relocation required by the City. The Company's obligations under this section 6.3 will not apply to the extent (a) the Company has been subjected to a force majeure event or other event beyond the reasonable control of the Company and (b) the Company has used good faith efforts to remove, adjust, or relocate its Facilities in a timely manner.

6.4 In various provisions of this Franchise, the Company is obligated to take action at the direction of the City within a specified time (see i.e. and without limitation, section 4.10.3.3, 4.12.1) and the City is thereafter empowered to undertake such actions at the sole expense of the Company if the Company fails to accomplish the action within the specified time. The City's actions in such a situation are termed the "City's Remedial Actions" for purposes of this section. To the extent not covered by the indemnity requirements of section 6.1, the Company shall indemnify, defend, and hold the City, its officers, officials, employees, agents, and volunteers harmless from any and all claims, injuries, damages, losses, or suits against, or payable by, the City arising out of or resulting from, directly or indirectly, the actions of the City, its officers, officials, employees, agents, and volunteers in undertaking the City's Remedial Actions under this Franchise. The Company and the City agree that the Company's indemnification for the City's Remedial Actions includes indemnification resulting from the sole negligence of the City, its officers, officials, employees, agents, and volunteers, except as otherwise provided in RCW 4.24.115, and Company further agrees that this indemnification obligation is separate, additional to, and severable from the Company's other indemnification obligations under this Franchise.

6.5 In any case in which a claim, injury, damage, loss, or suit is instituted against or submitted to the City and the City determines that the same was caused in whole or in part by the Company, the City or other indemnified party will promptly tender the defense of the claim to the Company. The Company shall thereafter have the duty to appear and defend without cost or expense to the City. The City may participate in the defense of a claim and, in any event, the Company may not agree to any settlement of claims affecting the City without the City's prior written consent.

6.6 The provisions of this section 6 shall survive the expiration, revocation, or termination of the Franchise.

## **Section 7. Insurance.**

7.1 General Requirement. The Company shall procure and maintain for the duration of this Franchise, and until all Facilities are removed from Rights-of-Way or abandoned in place, insurance against claims for injuries to persons or damage to property which may arise from or in connection with this Franchise or involve the Company.

7.2 No Limitation. The Company's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Company to the coverage provided by such insurance or otherwise limit the City's recourse to any remedy available at law or equity.

7.3 Insurance Limits. The Company shall maintain in full force and effect, at its own cost and expense, each of the following policies of insurance:

7.3.1 Commercial General Liability insurance with limits of Five Million dollars (\$5,000,000) per occurrence for bodily injury and property damage and Five Million dollars (\$5,000,000) general aggregate including personal and advertising injury, blanket contractual; premises-operations; independent contractors; products and completed operations; broad form property damage for explosion, collapse, and underground.

7.3.2 Commercial Automobile Liability insurance with a combined single limit of Five Million dollars (\$5,000,000) per accident for bodily injury and property damage covering the Company's owned, hired, and non-owned vehicles assigned to or used in the construction, operation, maintenance, repair, replacement, or removal of its Facilities.

7.3.3 Worker's Compensation insurance as required by the Industrial Insurance laws of the State of Washington and employer's liability with a limit of \$1,000,000 each accident/disease/policy limit.

7.3.4 Excess Liability or Umbrella Coverage in the amount of Two Million dollars (\$2,000,000).

7.4 The Company's insurance policies shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Company's insurance and shall not contribute with it.

7.5 The Company's insurance policies shall provide, or be endorsed to provide, that the City, its officers, officials, and employees are to be covered as, and have the rights of, additional insureds.

7.6 Verification of Coverage. The Company shall furnish the City with original certificates and a copy of the blanket additional insured endorsements, evidencing the insurance requirements of the Franchise upon acceptance of this Franchise. The certificate for each insurance policy is to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificate for each insurance policy must be on standard forms or on such forms as are consistent with standard industry practices. The Company hereby warrants that its insurance policies satisfy the requirements of this Franchise.

7.7 Acceptability of Insurers. Insurance obtained by the Company is to be placed with insurers with a current A.M. Best rating of not less than A-: VII.

7.8 Notice of Cancellation. Provided that the insurer will do so, each policy of insurance shall provide that a written notice of cancellation shall be delivered to the City thirty (30) days in advance of the effective date thereof. Otherwise, the Company shall provide the City with written notice of any policy cancellation within two business days, or as soon as practicable thereafter, of their receipt of such notice. Regardless, the Company shall provide a replacement policy and shall maintain continuous, uninterrupted insurance coverage, in at least the amounts required, for the duration of the Franchise.

7.9 The provisions of this section 7 shall survive the expiration, revocation, or termination of the Franchise.

## **Section 8. Financial Assurances.**

8.1 Surety Bond. No later than thirty (30) days following acceptance of this Franchise, the Company shall establish and provide to the City, as security for the faithful performance by the Company of all of the provisions of this Franchise, a performance bond, from a surety or financial institution acceptable to the City, in the amount of fifty thousand dollars (\$50,000).

8.1.1 The performance bond may be drawn upon by the City for purposes including, but not limited to, the following: (1) failure of the Company to pay the City sums due under the terms of this Franchise; (2) reimbursement of costs borne by the City to correct Franchise violations not corrected by the Company; (3) monetary remedies or damages assessed against the Company due to default or breach of Franchise requirements.

8.1.2 The City will give the Company thirty (30) days prior written notice of its intent to withdraw from the surety bond pursuant to this section. Within thirty (30) days following notice that such withdrawal has occurred, the Company shall restore the surety bond to the full amount required by section 8.1. The Company's maintenance of the surety bond shall not be construed to excuse faithful performance by the Company, limit the liability of the Company to the amount of the surety bond, or otherwise limit the City's recourse to any other remedy available at law or in equity.

8.1.3 The Company shall have the right to appeal to the Chief Administrative Official for reimbursement in the event the Company believes that the surety bond was drawn upon improperly. Any funds the City erroneously or wrongfully withdraws from the surety bond shall be returned to the Company plus charges or interest imposed by the surety.

8.2 Other Bonds. The Company shall comply with any other bonding requirements provided for in the City Codes. Further, if the City reasonably determines that the work covered by an application presents a potential for disruption of traffic, injury, damage, or expense to the City if not correctly and timely completed, the City may require the Company to provide an assurance device, in a form acceptable to the City, prior to issuance of a permit or approval.



## **Section 9. Civil Penalties and Additional Relief.**

9.1 The Company, and any officers, directors, employees, agents, contractors, or other Person acting on behalf of the Company, failing to comply with any of the provisions of this Franchise, shall be subject to a civil penalty and abatement in the manner and to the extent provided for in the City Codes.

9.2 In addition to any penalty which may be imposed by the City, and to the extent that a violation of this Franchise results in damage to City property or Rights-of-Way, the Company shall be responsible for the cost of restoring the affected area to its condition prior to the violation.

9.3 Notwithstanding any other provision herein, the City and the Company may seek legal or equitable relief to enjoin any act or practice and abate any condition, which constitutes or will constitute a violation of the applicable provisions of this Franchise, when civil or criminal penalties are inadequate to effect compliance. In addition to the penalties otherwise set forth in this section 9, the Company and the City acknowledge that any pattern of violations with respect to any material provision of this Franchise, consisting of three (3) or more such violations within a period of twelve (12) consecutive months, may further result in the revocation of any Rights-of-Way use agreement, Rights-of-Way use permit, facilities lease, other such authorization, or this Franchise.

9.4 Nothing in this section shall be construed as limiting any remedies the City or the Company may have, at law or in equity, for enforcement of this Franchise.

## **Section 10. Modifications of Terms and Conditions.**

The City and the Company hereby reserve the right to alter, amend, or modify the terms and conditions of this Franchise and any permit issued thereunder upon written agreement by both parties to such alteration, amendment, or modification. The City Council of the City of Marysville must approve any alteration, amendment, or modification of this Ordinance prior to it being signed by the City.

## **Section 11. Abandonment or Non-Use of Facilities.**

11.1 In the event this Franchise expires, is terminated, or the Company discontinues commercial use of any Facility located in the Rights-of-Way for a period of one hundred eighty (180) consecutive days or longer, the City may, upon written notice to the Company, require removal of any or all such Facilities from the Rights-of-Way within ninety (90) days. If the Company fails to remove the specified Facilities within the time specified, the City may cause removal of the specified Facilities at the Company's sole expense. The City will bill the Company for any expense incurred within thirty (30) days and the Company shall promptly reimburse the City within thirty (30) days.

11.2 Notwithstanding any other provision of this Franchise, the City may permit, by written notice, the Company to abandon any or all Facilities in place. The City's written notice will specify a date certain, prior to which the Company may remove its Facilities in accordance with this Franchise and after which the Facilities will be considered abandoned in place. Upon being

abandoned in place, the Facilities shall become the property of the City and the Company shall submit to the City an instrument, in writing and approved by the City Attorney, transferring ownership of the Facilities to the City.

11.3 The provisions of this section 11 shall survive the expiration, revocation, or termination of this Franchise.

#### **Section 12. Severability.**

If any term, provision, condition, or portion of this Franchise shall be held to be invalid or unconstitutional for any reason, the portion declared invalid shall be severable and the remaining portions of this Franchise shall be enforceable unless to do so would be inequitable or would result in a material change in the rights and obligations of the parties hereunder.

#### **Section 13. Transferability.**

The rights and privileges granted to the Company as provided in this Franchise may only be assigned or transferred to another Person with the prior written approval of the City, which will not be unreasonably withheld, conditioned, or delayed. However, the Company, following thirty (30) days written notice to the City, may assign this Franchise to an Affiliate, provided the Affiliate has the legal, technical, financial, and other qualifications to own, hold, construct, operate, maintain, repair, replace, and remove the Facilities for the purpose of providing Communications Services and agrees, in writing, to be fully liable to the City for compliance with all terms and conditions of this Franchise. The City is under no obligation to investigate the Company's then existing compliance with the Franchise and the failure of the City to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

#### **Section 14. General Enforcement.**

In the event that the City believes that the Company has not complied with any terms of the Franchise or the City Codes, other than sections 4.6, 4.10.3, or 4.12.1, the City may discuss the violation with the Company or may issue a written notice to cure the default. The City's notice to cure the default will include the actions to be taken to remedy the default and the timeframe within which the Company should accomplish the actions. The Company will thereafter have the time specified in the notice to cure the default to correct the default or, if the Company believes that the actions cannot be taken within the time specified, respond with a timeline for diligently accomplishing the actions and diligently complete those actions on the identified timeline.

#### **Section 15. Termination.**

Except as otherwise provided herein, this Franchise may be terminated, without penalty or further liability, as follows:

(a) Upon thirty (30) days written notice by the City if the Company fails to cure a default for payment of amounts due under this Franchise or the City Codes within that thirty (30) day period;

(b) Upon thirty (30) days written notice by either party if the other party commits a non-

monetary default and fails to commence curing such default within that thirty (30) day period, or such longer period as may be required to diligently complete a cure commenced within that thirty (30) day period; or

(c) Upon ninety (90) days written notice by the Company for economic reasons or if the location or the Facilities are or become unacceptable under the Company’s design or engineering specifications for its communications system.

**Section 16. Effective Date.**

16.1 This Franchise and the rights, privileges, and authority granted hereunder and the contractual relationship established hereby shall take effect and be in force from and after the effective date of this Franchise.

16.2 The effective date of this Franchise shall be the date of acceptance as specified in section 17, but in no event prior to five days after publication of this Ordinance by summary.

**Section 17. Franchise Acceptance.**

Within forty-five (45) days of the adoption of this Ordinance by the City Council, the Company shall execute and return to the City two fully executed acceptance forms, in the form attached to this Ordinance. In the event the Company fails to accept this Franchise, the Franchise shall be null and void and the Company shall have no rights or privileges hereunder.

**Section 18. Miscellaneous.**

18.1 This Franchise constitutes the entire agreement and understanding between the parties and supersedes all offers, negotiations, and other agreements concerning the subject matter contained herein. Any amendments to this Franchise must be in writing, approved by the City Council, and executed by both parties.

18.2 This Franchise shall be binding on and inure to the benefit of the permitted successors and permitted assignees of the respective parties.

18.3 Any notice or demand required to be given herein shall be made by United States mail or reliable overnight courier to the address of the respective parties set forth below:

To the City:	To the Company:
City of Marysville Attn: Chief Administrative Officer 1049 State Avenue Marysville, WA 98270	MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services Attn: Franchise Manager 600 Hidden Ridge Mailcode: HQE02G295 Irving, TX 75038

<p>With a required copy to:</p> <p>City of Marysville  Attn: City Attorney  1049 State Avenue  Marysville, WA 98270</p>	<p>With a required copy to:</p> <p>Verizon Business Network Services  Attn: Vice President and Deputy General Counsel,  Network Operations  1320 North Courthouse Road, Ste. 900  Arlington, VA 22201</p>
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The City or the Company may from time to time designate any other address for this purpose by written notice to the other party. All notices hereunder shall be deemed received upon actual receipt.

18.4 This Franchise shall be governed by the laws of the State of Washington.

18.5 In any case where the approval or consent of one party hereto is required, requested, or otherwise to be given under this Franchise, such party shall not unreasonably delay or withhold its approval or consent.

18.6 All amendments and exhibits annexed hereto form material parts of this Franchise.

18.7 This Franchise may be executed in duplicate counterparts, each of which shall be deemed an original.

18.8 Subject to applicable law, all rights and remedies given to the City by this Franchise or retained by the City herein shall be in addition to and cumulative with any and all rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity.

18.9 Venue for any dispute related to this Franchise shall be in Snohomish County Superior Court in Everett, Washington.

18.10 Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party, act toward third persons or the public in any manner that would indicate any such relationship with the other.

18.11 The failure of the either party at any time to require performance by the other of any provision hereof shall in no way affect the right of such party thereafter to enforce the same, nor shall the waiver by such party of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself or any other provision.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE

By: \_\_\_\_\_  
Jon Nehring, Mayor

Attest:

By: \_\_\_\_\_  
April O'Brien, Deputy City Clerk

Approved as to form:

By: \_\_\_\_\_  
Jon Walker, City Attorney

Date of Publication: \_\_\_\_\_

Effective Date: \_\_\_\_\_  
(5 days after publication)

**Acceptance of Franchise**

In accordance with and subject to Ordinance No. \_\_\_\_\_, constituting a Franchise Agreement between the City of Marysville (“the City”) and MCImetro Access Transmission Services Corp., d/b/a Verizon Access Transmission Services (“the Company”), the Company hereby submits this Acceptance of Franchise to the City.

The Company hereby unconditionally accepts and agrees to comply with all terms, provisions, and conditions of the Franchise Agreement.

Enclosed herewith is a certificate of insurance in accordance with Section 7.5 of the Franchise Agreement. Also enclosed herewith is the Company’s check in the amount of \$2,000 in accordance with section 5.1.1 of the Franchise Agreement, which amount is for the City’s costs relating to the administration of the Franchise Agreement.

The Company hereby certifies that the undersigned is a duly authorized officer of the Company with the authority to execute this Acceptance of Franchise.

**MCImetro Access Transmission Services Corp., d/b/a Verizon Access Transmission Services**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Its:** \_\_\_\_\_

State of                    )  
                                  ) ss.  
County of                )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_.

Notary Seal

\_\_\_\_\_  
(Signature of Notary)  
\_\_\_\_\_  
(Legibly Print or Stamp Name of Notary)  
Notary Public in and for the State of \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

# *Index #14*

**CITY OF MARYSVILLE AGENDA BILL  
EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/9/17**

<b>AGENDA ITEM:</b>	
Dedication of Right of Way for Road Purposes	

<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Jon Walker	
<b>DEPARTMENT:</b>	
Legal	

<b>ATTACHMENTS:</b>

<b>BUDGET CODE:</b>	<b>AMOUNT:</b>

<b>SUMMARY:</b>
-----------------

The City owns a triangular-shaped parcel abutting State Avenue. The westerly 11.00 feet of the parcel has been used for roadway purposes. By dedicating this portion of the parcel, the remainder of the parcel may be used for another purpose or sold and the right-of-way retained for roadway purposes.

<b>RECOMMENDED ACTION:</b>
Staff recommends the Council consider approving the ordinance dedicating right-of-way for public use.



CITY OF MARYSVILLE  
Marysville, Washington

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,  
WASHINGTON, DEDICATING RIGHT-OF-WAY FOR PUBLIC USE.**

WHEREAS, The City of Marysville owns the parcel 30050900204500, a triangular parcel abutting State Avenue; and

WHEREAS, the parcel is further described in the statutory warranty deed filed under auditor's file number 200802130132.

WHEREAS, the City of Marysville acquired this parcel to construct road improvements on State Avenue; and

WHEREAS, the westerly 11.00 feet of the parcel is being used for road right-of-way purposes and should be dedicated to that purpose; and

WHEREAS, the westerly 11.00 feet is legally described in Exhibit A; and

WHEREAS, the public health, safety, and welfare will benefit by dedicating the westerly 11.00 feet of the parcel to public use as right-of-way.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE,  
WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The westerly 11.00 feet of parcel 30050900204500 as described in Exhibit B is hereby dedicated to public use as right-of-way for State Avenue.

SECTION 3. The proper officers of the City of Marysville shall record a certified copy of this ordinance with the Snohomish County Auditor and execute documents required to dedicate the westerly 11.00 feet of the parcel as right-of-way.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 5. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE

By \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

By \_\_\_\_\_  
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By \_\_\_\_\_  
JON WALKER, CITY ATTORNEY

Date of publication: \_\_\_\_\_  
Effective Date (5 days after publication): \_\_\_\_\_

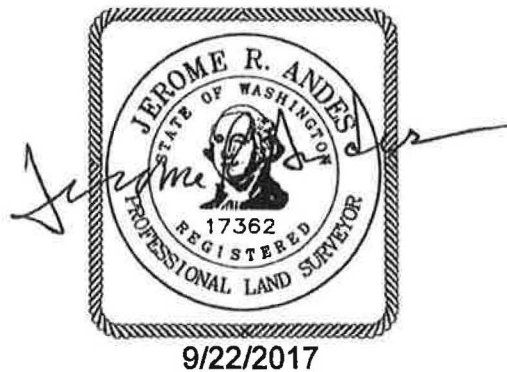
**EXHIBIT A**  
**LEGAL DESCRIPTION**

The westerly 11.00 feet of the tract of land described below, being a line 41.00 feet easterly from, as measured perpendicular to and parallel with, the centerline of State Avenue:

That portion of the Northeast Quarter of the Northwest Quarter of Section 9, Township 30 North, Range 5 East, W.M., described as follows:

Beginning at a point on the east line of said Northeast Quarter of the Northwest Quarter, a distance of 376.00 feet South of the northeast corner of said subdivision; thence West to the east right-of-way line of State Avenue (Pacific Highway); thence southeasterly, along said east right-of-way line, a distance of 324.70 feet; thence East to the east line of said subdivision; thence North, along said east line, a distance of 311.60 feet to the point of beginning.

EXCEPT that portion lying easterly of the west line of the Northern Pacific Railway Company Right-of-Way.



# *Index #15*

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 10/9/17**

<b>AGENDA ITEM: Smokey Point Stay Out of Drug Area (SODA)</b>	

<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Jon Walker	
<b>DEPARTMENT:</b>	
Legal	

<b>ATTACHMENTS:</b>

<b>BUDGET CODE:</b>	<b>AMOUNT:</b>

<b>SUMMARY:</b>
-----------------

The City established a Stay Out of Drug Area (SODA) in the downtown core and it has been a valuable tool in crime prevention. Police have focused resources in the Smokey Point area through their Northern Lights operation to interdict drugs and prevent other crimes in this area. Statistics collected by Police has identified over 1,000 crimes that are directly or indirectly related to drug activity in the area. The City of Arlington recently established a SODA adjacent to the Smokey Point area and it is anticipated that this may result in some individuals involved with drugs moving into Marysville. By establishing a SODA in the Smokey Point area, Police will have an additional tool to address criminal activity in that area.

<b>RECOMMENDED ACTION:</b>
Staff recommends the Council consider adopting the resolution establishing a SODA in the Smokey Point area.

CITY OF MARYSVILLE  
Marysville, Washington

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,  
WASHINGTON, ESTABLISHING THE BOUNDARIES OF A NEW SMOKEY  
POINT “STAY OUT OF DRUG AREAS” (SODA).**

WHEREAS, section 6.28.040 of the municipal code authorizes the City Council to establish, modify, or eliminate a Stay Out of Drug Area (SODA) by resolution; and

WHEREAS, the Marysville Police Department has provided information to the Council supporting the need for a new SODA in the Smokey Point area of Marysville; and

WHEREAS, statistics from the Marysville Police Department show that in the last two and one-half years this area has experienced nearly 300 drug-related incidents; and

WHEREAS, these statistics also show that the area has experienced over 600 thefts and nearly 400 nuisance and trespass incidents during this time period and those types of crimes are typically associated with individuals involved with drugs; and

WHEREAS, this area has been the focus of the police department’s ongoing Northern Lights operation to interdict drugs and prevent other crimes; and

WHEREAS, the City of Arlington has recently adopted a SODA adjacent to this proposed SODA; and

WHEREAS, it is anticipated that the establishment of the Arlington SODA will increase the likelihood of individuals involved with drugs moving into the area encompassed by this proposed SODA; and

WHEREAS, establishing this Smokey Point SODA will enhance public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE that the following boundaries are established as the Stay Out of Drug Area (SODA):

The entire area including, but not limited to, both sides of the full width of streets, all real property, both private and public, alleys, sidewalks, common areas, planting strips, parks, railroad tracks, marinas, trails, beaches and parking areas within the area described below:

1. Beginning as a point where 152nd Street NE crosses Hayho Creek in a westerly direction along the south side of 152nd Street NE to Smokey Point Boulevard;

- 2. North along the west side of Smokey Point Boulevard to 156th Street NE;
- 3. West along the south side of 156th Street NE to the Burlington Northern railroad tracks;
- 4. Northwesterly along the west side of the railroad tracks to 172<sup>nd</sup> Street NE;
- 5. East along the north side of 172<sup>nd</sup> Street NE to 19<sup>th</sup> Avenue NE;
- 6. North along the west side of 19<sup>th</sup> Avenue NE to the city limits;
- 7. East along the city limits until the boundary runs north-south;
- 8. North along the city limits until the boundary runs west-east;
- 9. East along the city limits to Interstate 5/city limits;
- 10. South along the city limits until the boundary runs west-east;
- 11. East along the city limits to the main branch of Hayho Creek;
- 12. South along the east side of Hayho Creek to the point of beginning.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE the map attached as Exhibit A depicts these boundaries and may be used to notify individuals of the boundaries of the Smokey Point SODA.

ADOPTED by the City Council at an open public meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MARYSVILLE

By \_\_\_\_\_  
JON NEHRING, MAYOR

Attest:

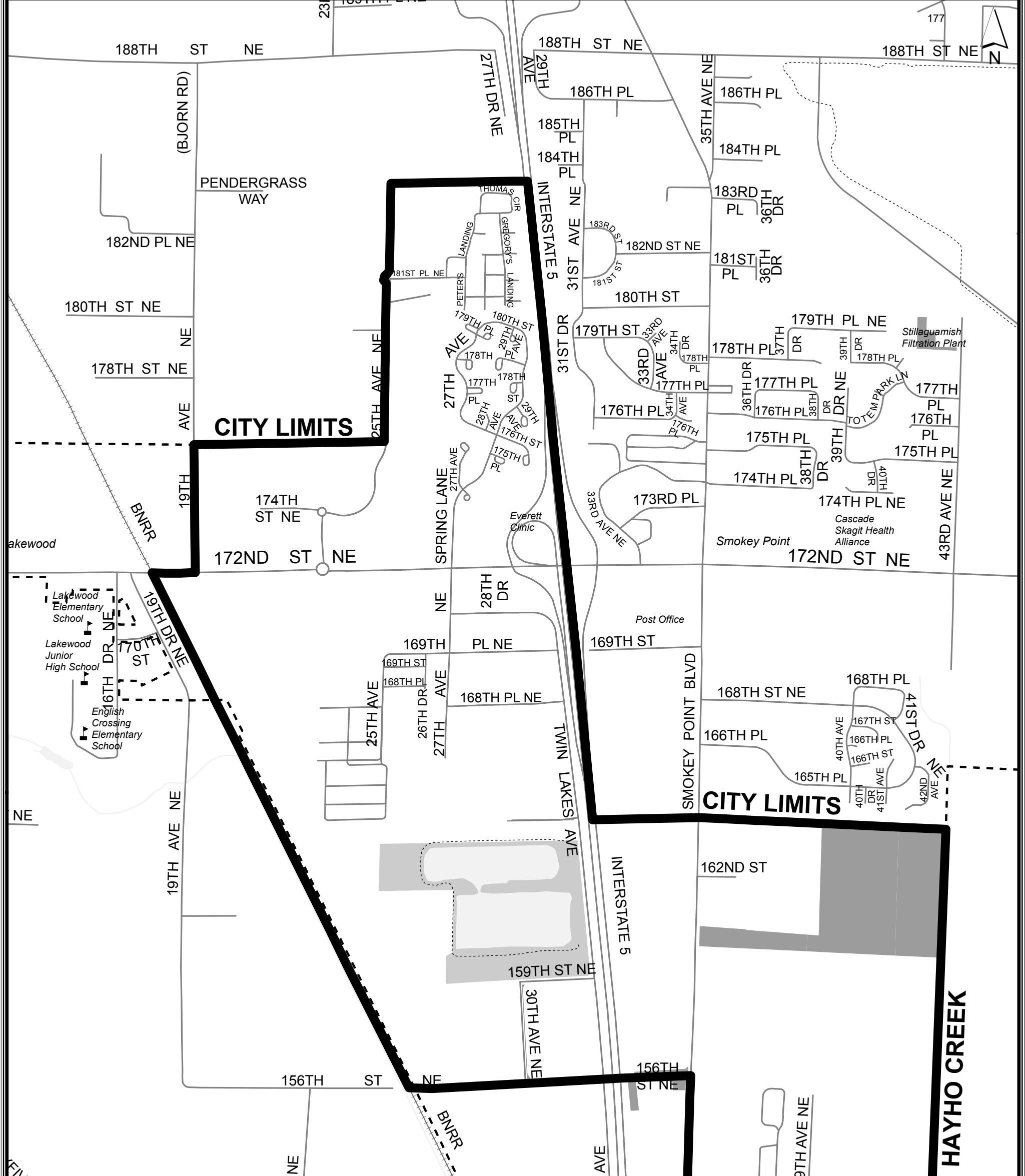
By \_\_\_\_\_  
APRIL O'BRIEN, DEPUTY CITY CLERK

Approved as to form:

By \_\_\_\_\_  
JON WALKER, CITY ATTORNEY

# EXHIBIT A





# City of Marysville

## SODA (Stay Off Drugs Area)

**Legend**

SODA (Stay Off Drugs Area)	Street	Fire Station
Park	Burlington Norther RR	Police Station
City Property	Trails	School
City of Marysville City Limits		

0 375 750 1,500 2,250 3,000 Feet

Map Plotted: September, 2017

THE CITY OF MARYSVILLE DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS OF THIS MAP FOR ANY PARTICULAR PURPOSE, EITHER EXPRESSED OR IMPLIED. NO REPRESENTATION OR WARRANTY IS MADE CONCERNING THE ACCURACY, CURRENCY, COMPLETENESS OR QUALITY OF DATA DEPICTED. ANY USER OF THIS MAP ASSUMES ALL RESPONSIBILITY FOR USE THEREOF, AND FURTHER AGREES TO HOLD THE CITY OF MARYSVILLE HARMLESS FROM AND AGAINST ANY DAMAGE, LOSS, OR LIABILITY ARISING FROM ANY USE OF THIS MAP.

P:\GIS\Hudson\Projects\Maps\Administration\COM\_SODA\_North\_BW\_09192017.mxd

140TH PL  
142ND ST  
144TH ST NE  
26TH DR NE  
29TH AVE  
31ST AVE  
Item 15 5

Stimson Crossing