

PUBLIC NOTICE:

Pursuant to Governor Inslee’s Proclamation 20-28, in an effort to curtail the spread of the COVID-19 virus, City Council Meetings and Work Sessions will take place by teleconference. Councilmembers and members of the public will not attend in person. Anyone wishing to provide written or verbal public comment, must pre-register at this link www.marysvillewa.gov/remotepubliccomment before noon on the day of the meeting.

To listen to the meeting without providing public comment:

Join Zoom Meeting
<https://zoom.us/j/92977133971>

Or
Dial by your location
1-888-475-4499 US Toll-free
Meeting ID: 929 7713 3971

Call to Order

Invocation

Pledge of Allegiance

Roll Call

Approval of the Agenda

Presentations

- A. Proclamation: Declaring March 14, 2021 Bob Peterson Day
- B. Snohomish Health District

Audience Participation

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

- 13. Approval of the February 22, 2021 City Council Meeting Minutes *
- 14. Approval of the February 19, 2020 City Council Special Meeting Minutes *

Consent

- 1. Approval of the February 10, 2021 Misc. Payroll in the Amount of \$29,991.62 Paid by EFT Transactions and Check Numbers 33374 through 33375

**These items have been added or revised from the materials previously distributed in the packets for the March 1, 2020 Work Session.*

Marysville City Council Meeting**March 8, 2021****7:00 p.m.****City Hall**

2. Approval of the February 17, 2021 Claims in the Amount of \$3,352,892.43 Paid by EFT Transactions and Check Numbers 146497 through 146653
3. Approval of the February 25, 2021 Payroll in the Amount of \$1,453,575.61 Paid by EFT Transactions and Check Numbers 33376 through 33384
4. Approval of the February 24, 2021 Claims in the Amount of \$668,855.00 Paid by EFT Transactions and Check Numbers 146654 through 146783
5. Consider Approving the Supplemental Agreement No. 5 with HDR, Inc. for Phase 2 of the State Avenue (100th Street NE to 116th Street NE) Corridor Improvement Project in the Amount of \$298,543.93 and Extending the Term to June 30, 2022
6. Consider Approving the Amending the Grant Agreement with the Department of Ecology for the Downtown Stormwater Treatment Project
7. Consider Approving the Professional Services Agreement with BHC Consultants for the Design of the WWTP Near Term Improvement Project
8. Consider Approving the Water Easement Relinquishment with WK Investments, LLC
9. Consider Approving the Sewer Easement Relinquishment with WK Investments, LLC

Review Bids**Public Hearings****New Business**

10. Consider Approving an **Ordinance** Consenting to the Change of Control of Astound Broadband LLC *
11. Consider Approving an **Ordinance** Consenting the Change of Control of WaveDivision I, LLC
12. Consider Approving a **Resolution** to Increase Cedarcrest Golf Course Rates
15. Consider Approving an **Ordinance** Amending Chapter 6.27 MMC and Criminalizing the Possession of a Controlled Substance without a Prescription *

Legal**Mayor's Business****Staff Business**

**These items have been added or revised from the materials previously distributed in the packets for the March 1, 2020 Work Session.*

A



PROCLAMATION

Declaring March 14, 2021, Bob Peterson Day in Marysville

WHEREAS, Marysville resident Bob Peterson is a 93-year-old World War II veteran who served admirably in the U.S. Navy for several years starting in 1945; and

WHEREAS, Mr. Peterson trained in San Diego and Camp Elliott, Calif., before serving on the USS Hamlin, a Navy tender that supported vital seaplane operations in the Pacific Theater, including service in Saipan, Iwo Jima and Okinawa, during which time Mr. Peterson served as an Admiral's driver; and

WHEREAS, official U.S. Navy records indicate that upon his discharge from military service as a Hospital Apprentice First Class at the U.S. Naval Hospital in Bremerton, Mr. Peterson was eligible for a World War II Victory Medal; and

WHEREAS, unfortunately, that medal of honor was never properly awarded, and the Monroe and Everett posts of the Veterans of Foreign Wars (VFW) are seeking to right that wrong; and

WHEREAS, our community and our country are indebted to so many military veterans for their service, and are pleased to honor especially Marysville's own Bob Peterson for his commendable service during World War II; and

WHEREAS, Mr. Peterson will finally be awarded his long-earned World War II Victory Medal in a ceremony with his family on March 14, 2021, at the Everett VFW Post;

NOW, THEREFORE I, JON NEHRING, MAYOR, do hereby proclaim March 14, 2021, as

BOB PETERSON DAY IN MARYSVILLE

and on behalf of our grateful city, I offer my heartfelt appreciation for his service to our nation.

Under my hand and seal this eighth day of March, 2021.

THE CITY OF MARYSVILLE

Jon Nehring, Mayor

B

Resiliency & Recovery for a Healthy, Thriving Community

City of Marysville Presentation
Shawn Frederick, Administrative Officer
Snohomish Health District



2020 in REVIEW (NON-COVID)

Rebuilding the Agency

- ✓ Online service delivery
- ✓ IT infrastructure
- ✓ Rucker Building improvements
- ✓ Transparency and accountability
 - ClearGov

Environmental Health Division



4,500+

Inspections on restaurants, grocery stores, espresso stands, caterers and mobile food vehicles



1,000+

Complaints addressed (food, pools, septic and solid waste)



~500

Permits for pools and spas that we routinely inspect



200+

Public and private schools with kitchen permits and required safety inspections

Prevention Services Division



More than
3,000 cases
of sexually
transmitted
diseases
reported



1300+
consultations
with child care
providers – 3x
more than in
2019



Investigated
1,000+
communicable
disease cases
(separate from
COVID-19)



Conducted 47
Vaccines for
Children
compliance
visit and 500+
technical
assistance visits

In Your Community

- ✓ 294 annual food establishment permits issued.
- ✓ Followed up on 64 complaints involving food establishments.
- ✓ Responded to 146 COVID-related calls involving Marysville businesses.
- ✓ 146 child care providers received consultations through Child Care Health Outreach program, and 341 continuing education courses completed by providers in or from Marysville.
- ✓ Land Use team reviewed 27 building clearances and 40 as-builts, and issued 45 septic permits in Marysville.
- ✓ Tested nearly 3,000 Marysville residents at our community-based COVID testing events.

COVID-19 RESPONSE

Web Resources (www.snohd.org/covid)

CORONAVIRUS INFORMATION

The Snohomish Health District is tracking COVID-19 carefully and working with the community to reduce the impacts of this virus. We can all help fight this pandemic by staying informed and prepared. This is an evolving situation, and these web pages are updated frequently. To reach the Snohomish Health District's COVID-19 call center, call 425-339-5278.

Please click the topic buttons below for more information.



Case Counts and Data



Drive-Thru Testing



COVID-19 Health Info



COVID Vaccine



WA Notify App



News and Briefings



Schools/Child Care



Businesses/Organizations



Healthcare Providers



At-Risk Populations



FAQ



Language Resources



Posters for Download

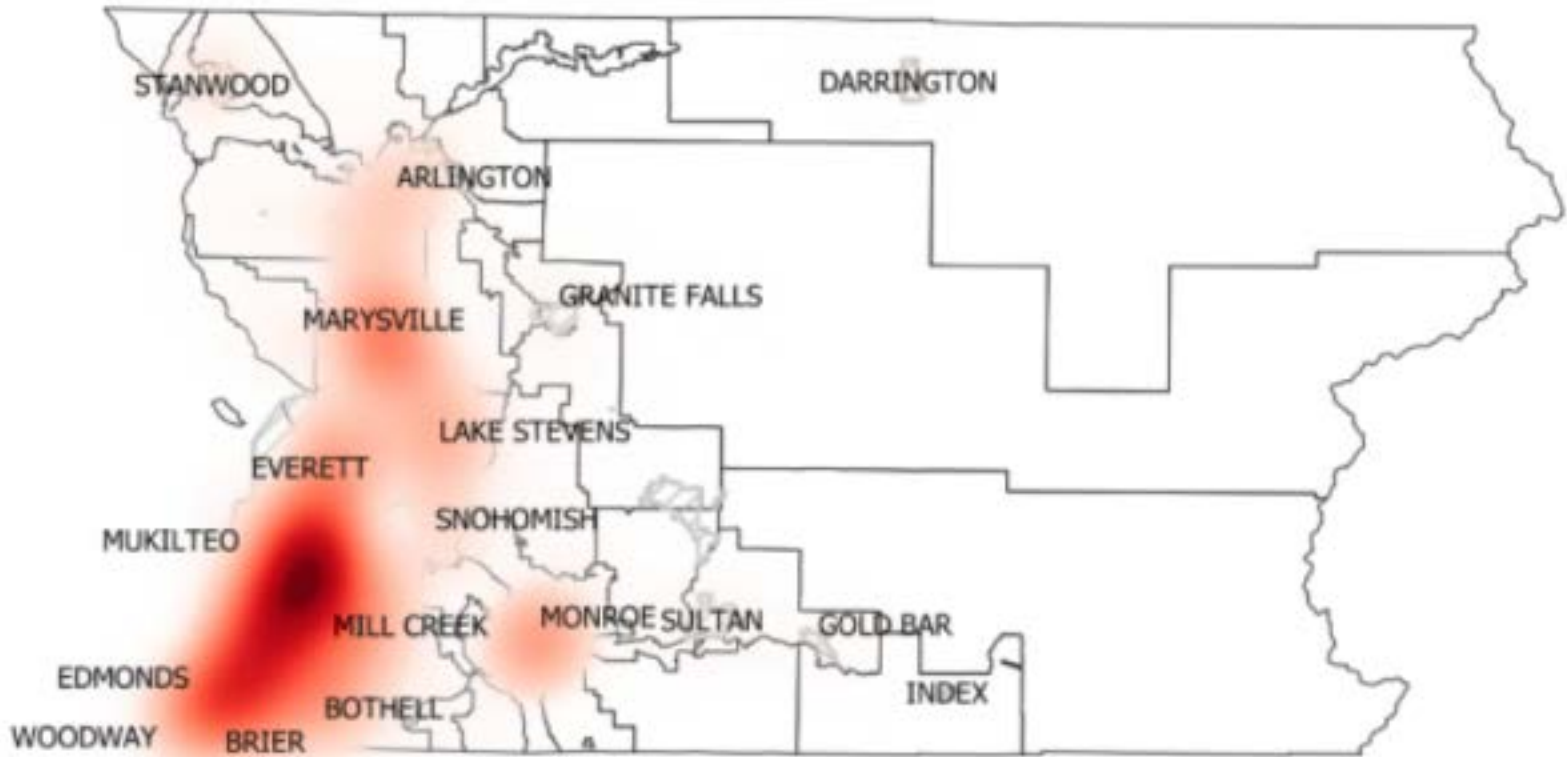


State Guidance



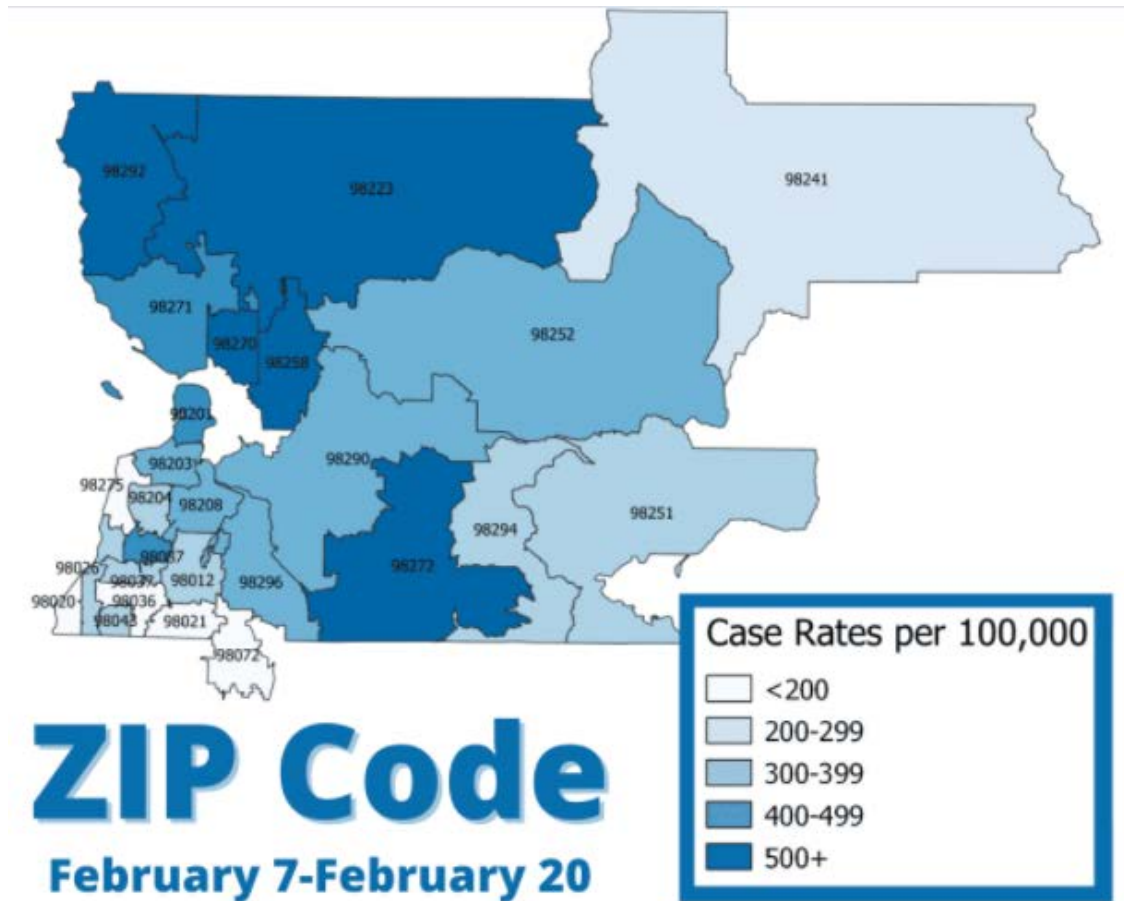
Long-Term Care Facilities

COVID-19 Heat Map--Cumulative



Through February 20, 2021

Rate by Zip Code for 2-week Period



Through February 20, 2021

COVID-19 Looking Ahead

- Healthcare System
 - Continue work with hospitals, LTCFs, clinics, pharmacies & providers
- Disease Prevention & Containment
 - Continue testing, case, contact and outbreak investigations
 - Support schools in implementing statewide guidance
- Vaccine
 - Work with Vaccine Taskforce to increase supply to meet capacity
 - Develop reporting information on demographics, etc.
 - Collaborate with partners to increase access for underserved
 - Continue to follow prioritization in vaccination phases

COVID-19 Vaccine Dashboard

	Total first doses received (weeks 1-10)	Total second doses received (weeks 4-10)	No. of approved providers that received vaccine	Number of first doses administered*	Number of second doses administered	Increase in all doses administered since last week	Expected first dose allocation for week 11	Expected second dose allocation for week 11	Total number of approved providers
Moderna	72,400	59,700	25	69,030	22,713	20,187	1,900	8,190	112
Pfizer	20,475	5,850	1	23,205	5,982	5,450	8,190	12,700	4
Total	92,875	65,550	26	92,235	28,695	25,637	10,090	20,890	112

**Note: These numbers are preliminary based on what has been entered into the Washington Immunization Information System (WAIS).*

Does not include federal-pharmacy partnership addressing nursing homes and assisted living facilities

February 20, 2021

Moving **FORWARD**

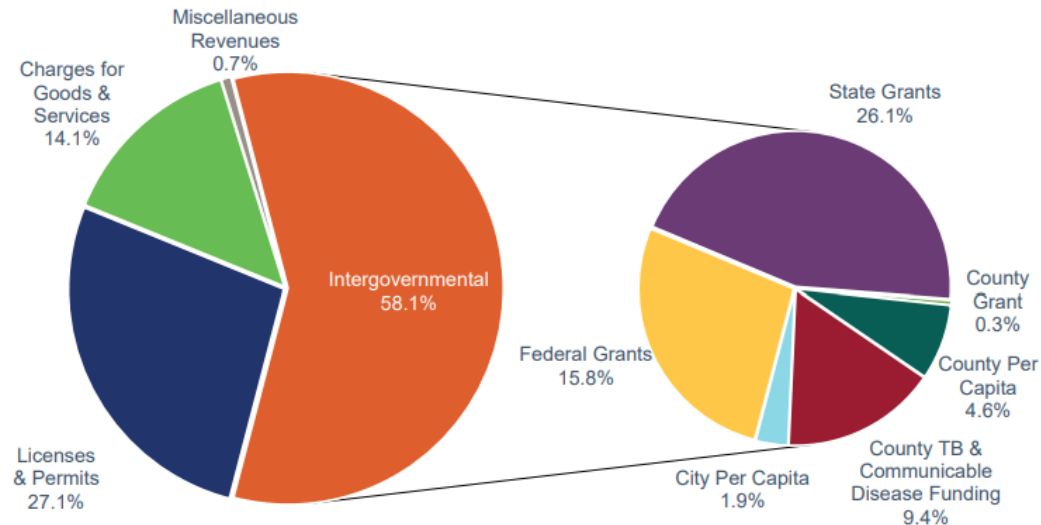
Implementing Our Strategic Plan

- Reduce the rate of communicable disease and other notifiable conditions
- Prevent or reduce chronic diseases and injuries
- Provide high-quality environmental health services
- Improve maternal, child, and family health outcomes
- Provide legally required vital records
- Address ongoing, critical public health issues
- Support increased access to medical, oral, and mental health care
- Build a more sustainable organization

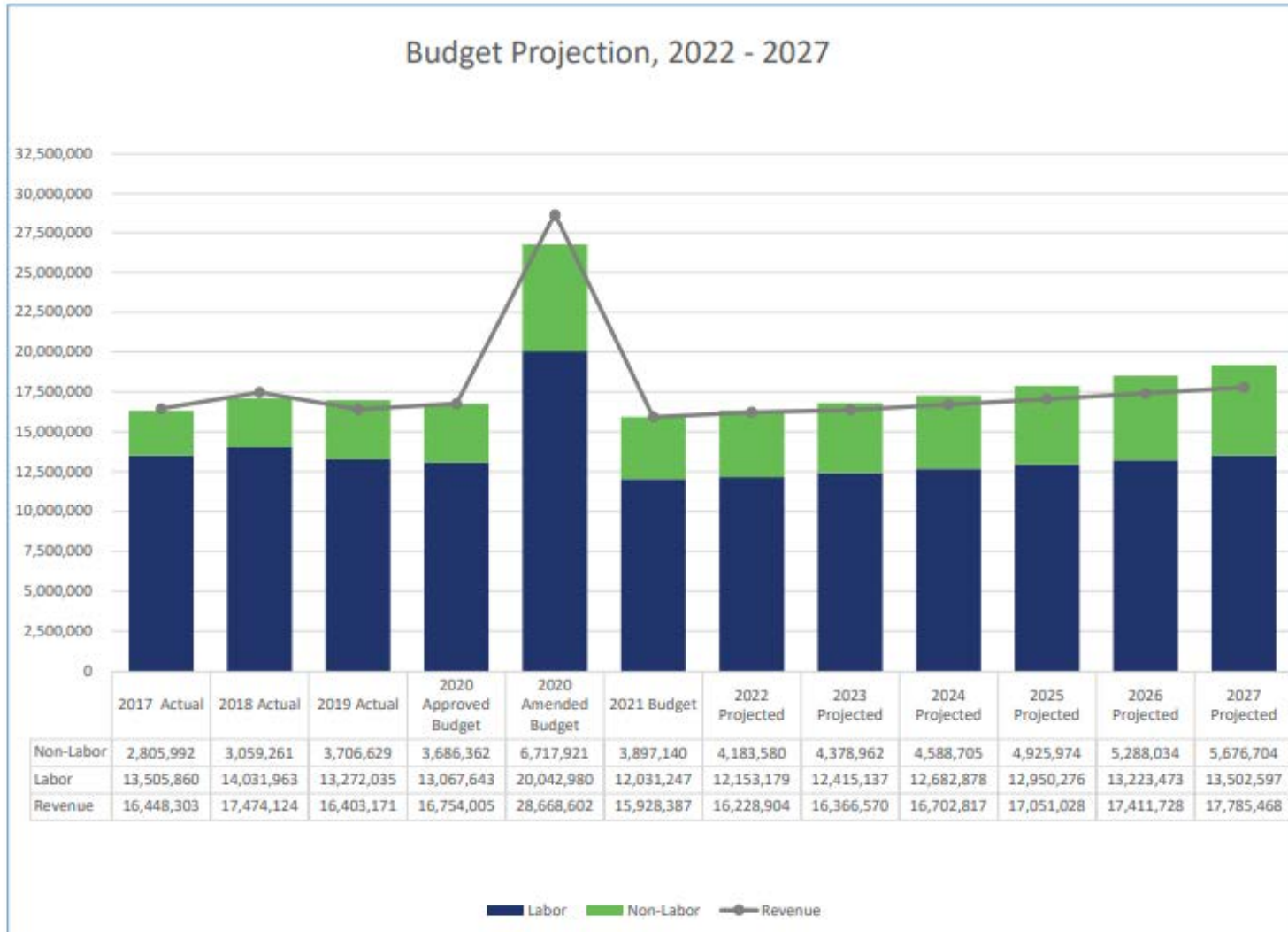
Projected Revenues

	2017 Actual	2018 Actual	2019 Actual	2020 Amended Budget	2021 Proposed Budget
Licenses & Permits	3,860,426	4,008,199	3,787,452	3,577,892	4,314,297
Intergovernmental Revenue	10,147,984	11,046,367	9,913,452	22,383,413	9,260,321
Charges for Goods & Services	2,140,985	1,838,729	2,578,610	2,449,479	2,239,463
Miscellaneous Revenues	<u>298,909</u>	<u>580,829</u>	<u>401,213</u>	<u>257,818</u>	<u>114,557</u>
	16,448,304	17,474,124	16,680,727	28,668,602	15,928,387

2021 Budgeted Revenue By Source



Updated Six-Year Forecast



Looking Ahead

- ✓ COVID Funding - continue engaging with federal delegation and local partners to ensure extended & expanded
- ✓ Sustainable Funding - while 2021-2025 are fairly stable, current trends would leave the District with an inadequate total fund balance to cover reserves starting in 2026.
- ✓ Increased Revenue – finalizing renovations to lease out space in Rucker Building; hiring grant coordinator; Sound Foundation for Public Health getting up and running.

Sound Foundation for Public Health



- New Foundation board members selected
- Anticipate filing paperwork in Q1
- Finalizing MOU between Foundation and Health District

Purpose: To provide support for priorities identified in community health assessments, community health improvement plans, and/or emerging public health issues in Snohomish County.

Stay in touch

Blog & Newsletters



Sign up for our blog, newsletters, alerts and more at www.snohd.org/NotifyMe

Social Media

Follow us on Facebook, Twitter, YouTube, and Instagram



Thank you

contact information

For more info, please contact:

Shawn Frederick, MBA

Administrative Officer

425.339.8687

SFrederick@snohd.org

Update
Index #13

City Council



**1049 State Avenue
Marysville, WA 98270**

**Regular Meeting
Minutes
February 22, 2021**

Call to Order / Invocation / Pledge of Allegiance

Mayor Nehring called the February meeting to order via Zoom at 7:00 p.m. Zachary Watson of Marysville Foursquare Church delivered the invocation. Mayor Nehring led the meeting in the Pledge of Allegiance.

Roll Call

Present:

Mayor: Jon Nehring

Council: Council President Kamille Norton, Councilmember Jeff Vaughan, Councilmember Tom King, Councilmember Mark James, Councilmember Kelly Richards, Councilmember Michael Stevens, Councilmember Steve Muller

Staff: Chief Administrative Officer (CAO) Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Erik Scairpon, City Attorney Jon Walker, Parks & Recreation Director Tara Mizell, Assistant Public Works Director Kari Chennault, Fire Chief Martin McFalls, Human Resources Manager Lester, Community Information Officer (CIO) Connie Mennie, Information Services Manager Worth Norton, Systems Analyst Mike Davis, Senior Planner Amy Hess

Approval of the Agenda

Motion to approve the agenda moved by Councilmember Muller seconded by Councilmember Stevens.

AYES: ALL

Committee Reports

Councilmember King reported on last week's Fire Board Meeting where Chief Neuhoff gave an update on the 911 radio upgrades. Funds from the sale of older units will go back to the Marysville Fire District.

Presentations

A. Premier Golf 2020 Annual Report

Director Mizell introduced Golf Pro Shane Day, Assistant President Beth Hagen, and the new Golf Pro Wayne Clark. Mr. Day made a presentation regarding the Premier Golf 2020 Annual Report. In general revenues for golf in the Seattle market were up 3.6% and Cedarcrest was up six times that amount with a yearly revenue of \$1.555 million. There was record revenue in greens fees, cart rentals, and overall revenue even though it was the wettest year since they have been tracking data on the golf course. Almost 48,000 rounds of golf were played on the course this year which is up 22% from the previous year.

Mr. Day gave general updates on the course including Player's First surveys, marketing, and course upgrades and statistics. He discussed COVID-19's impact on operations and events and reviewed further details of the financial performance of the course. He reviewed the overall positive outlook for 2021. Currently for 2021 the overall revenue is up 131% compared to 2020 and is 98% ahead of budget. Mr. Day informed the Council that he will be taking a position with the Legion Memorial Team, and Wayne Clark will be joining the Cedarcrest team as the new General Manager/Gold Pro.

Staff is proposing a \$2 rate increase on the 18-hole rounds and \$1 increase for most other types of play which would take effect on March 1. They are proposing to increase rates on a cycle of increasing for two years in a row and then taking a year off. He reviewed local data which showed that even with the proposed rate increase Cedarcrest's rates are still number 10 in the area. He thanked Marysville for the opportunity to work at Cedarcrest.

Councilmember Muller thanked Mr. Day for the great work and noted he will be missed. He has noticed that other courses had a lot of trouble with tee boxes last year, but Cedarcrest's held up well. Mr. Shayne discussed the flexible, late-night maintenance done by staff which helped to mitigate impacts of the high use and weather.

Councilmember King asked if the high school golf team would be back this spring. Mr. Day replied that Grace Academy started today and the other schools will start at the end of March for a six-week season.

Councilmember King also asked if they repaired the cart paths. Mr. Day replied that the grinding down of the paths happened in 2019, and it seems to be much better even though there are still some tough spots.

Council President Norton thanked Mr. Day for the great work over the past few years and welcomed Wayne Clark.

Mayor Nehring thanked Mr. Day for doing an amazing job and welcomed Wayne Clark. He asked staff for an evaluation of where the increase in numbers is coming from. Mr. Day replied there he thinks there were at least a thousand new golfers, and they are working on how to keep them golfing. He thinks it is even better than the Tiger Woods boom.

Director Mizell expressed appreciation to Mr. Day for the phenomenal job he has done at the golf course along with the rest of the team and commended the team's high level of customer service during an unprecedented time. She welcomed Wayne Clark to the team. She stated that staff would be back next week with an agenda bill related to the rates increase.

Audience Participation

Mayor Nehring solicited public comments. There were none.

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

1. Approval of the February 8, 2021 City Council Meeting Minutes

Motion to approve the February 8, 2021 City Council Meeting Minutes as presented moved by Councilmember Muller seconded by Councilmember James.

AYES: ALL

2. Approval of the February 16, 2021 City Council Special Meeting Minutes

Motion to approve the February 16, 2021 City Council Special Meeting Minutes moved by Council President Norton seconded by Councilmember Richards.

AYES: ALL

Consent

3. Approval of the January 21, 2021 (Period 13 – 2020 budget year) Claims in the Amount of \$3,600,386.26 Paid by EFT Transactions and Check Numbers 145905 through 146010
4. Approval of the January 25, 2021 Payroll in the Amount of \$1,378,326.73 Paid by EFT Transactions and Check Number 33347 through 33357 with Check Number 108004 Voided
5. Approval of the January 27, 2021 Claims in the Amount of \$530,751.70 Paid by EFT Transactions and Check Numbers 146011 through 146183 with Check Number 145338 Voided

6. Approval of the February 3, 2021 Claims in the Amount of \$415,108.48 Paid by EFT Transactions and Check Numbers 146184 through 146354 with Check Number 145710 and 146171 Voided
7. Approval of the February 10, 2021 Claims in the Amount of \$604,487.24 Paid by EFT Transactions and Check Numbers 146355 through 146496
8. Approval of the February 10, 2021 Payroll in the Amount of \$1,804,018.09 Paid by EFT Transactions and Check Numbers 33358 through 33373

Motion to approve Consent Agenda items 3-8 moved by Councilmember Richards seconded by Councilmember King.

AYES: ALL

Review Bids

Public Hearings

9. Consider Approving the Program Year 2021 Annual Action Plan, as recommended by the Citizen Advisory Committee, provide a summary of, and response to any comments received during the public hearing into the Program Year 2021 Annual Action Plan, and direct staff to forward Program Year 2021 Annual Action Plan to the U.S. Department of Housing and Urban Development

Senior Planner Hess reviewed the Community Development Block Grant - Program Year 2021 Annual Action Plan. She explained the Plan was made available for public review and comments for 30 days, but no comments were received. The Plan outlines the expectations, goals and achievements for each of the sub-recipients of any funding.

The public hearing was opened at 7:34 p.m., and public comments were solicited. Seeing no comments the public hearing was closed at 7:34 p.m.

Council Comments:

Councilmember Richards asked what was included in the crosswalk improvement program for \$81,000. Senior Planner Hess explained this is for the rapid flashing beacons at key intersections around the city.

Motion to authorize the Mayor to sign and execute the Program Year 2021 Annual Action Plan, as recommended by the Citizen Advisory Committee, provide a summary of, and response to any comments received during the public hearing into the Program Year 2021 Annual Action Plan, and direct staff to forward Program Year 2021 Annual Action Plan to the U.S. Department of Housing and Urban Development moved by Councilmember James seconded by Councilmember Muller.

AYES: ALL

New Business

10. Consider Approving the Grant Agreement with the Department of Ecology, Allowing the City to Receive \$56,351.00 in Grant Funding the Armar Road Retrofit Design Project

Assistant Director Chennault reviewed this grant agreement with the Department of Ecology (DOE) for storm water improvements on Armar Road.

Motion to authorize the Mayor to sign and execute the Grant Agreement with the Department of Ecology, Allowing the City to receive \$56,351.00 in Grant Funding the Armar Road Retrofit Design Project moved by Councilmember Richards seconded by Councilmember King.

AYES: ALL

11. Consider Approving the Grant Agreement with the Department of Ecology, Allowing the City to Receive \$2,319,638.00 in Grant Funding for the LID Improvements for 2nd and Cedar Avenue Project

Assistant Director Chennault reviewed this DOE grant for construction of the 2nd and Cedar Avenue project in front of the Opera House.

Councilmember King asked if this would include a marked crosswalk from the Opera House over to the parking lot. Assistant Director Chennault indicated that it would.

Motion to authorize the Mayor to sign and execute the Grant Agreement with the Department of Ecology, Allowing the City to receive \$2,319,638.00 in Grant Funding for the LID Improvements for 2nd and Cedar Avenue Project moved by Councilmember King seconded by Council President Norton.

AYES: ALL

12. Consider Approving the Professional Services Agreement with Botesch, Nash, & Hall Architects, P.S. in the Amount of \$729,745.00 for A/E Design for City Hall Tenant Improvements

CAO Hirashima explained this Professional Services Agreement is for architectural and design services for tenant improvements at the new civic campus. This is the same architect team the City used for the rest of the facility.

Motion to authorize the Mayor to sign and execute the Professional Services Agreement with Botesch, Nash, & Hall Architects, P.S. in the Amount of \$729,745.00 for A/E Design for City Hall Tenant Improvements moved by Councilmember Stevens seconded by Councilmember James.

AYES: ALL

13. Consider Approving the Purchase from Tyler Technologies for ExecuTime – Time and Attendance and Advance Scheduling

Finance Director Langdon reviewed this agreement which would add a time and attendance module to the existing payroll system.

Councilmember Richards referred to the one-time fee of just over \$80,000 and the annual fee of \$11,000. He asked how long the system would be useful to justify the significant one-time fee. Finance Director Langdon explained the \$80,000 gets the City the install and the implementation of the module. The annual fee would include any maintenance and upgrades needed.

Motion to authorize the Mayor to sign and execute the Purchase from Tyler Technologies for ExecuTime – Time and Attendance and Advance Scheduling moved by Councilmember Richards seconded by Councilmember Stevens.

AYES: ALL

15. Consider Approving a Resolution to Amend Council Procedures

City Attorney Walker explained this would move the Committee Reports from the beginning of the meeting and incorporate them into Call on Council at the end of the meeting.

Councilmember Richards asked if Committee Reports would be separate from Call on Council or incorporated in. City Attorney Walker explained that as written it would be incorporated into Call on Council.

Councilmember Muller asked how potential attachments or supplemental information related to Committee Reports should be handled. CAO Hirashima explained that staff is working on creating a monthly packet of agendas, packets and information related to committees to make available to councilmembers.

Motion to adopt Resolution 2493 to amend Council Procedures moved by Councilmember Vaughan seconded by Councilmember Muller.

AYES: ALL

Legal

Mayor's Business

- HB1386 voted out of Finance Committee last week and is now onto the Rules Committee and then hopefully to the full floor for a vote.
- There was a good meeting Friday morning for campus art review.

Staff Business

Chief McFalls had no comments.

Chief Scairpon had the following comments:

- Thanks to Chief McFalls for plunging with him to help support Special Olympics.

- Thanks to Council for approving the ExecuTime initiative tonight. This will help the Police Department with payroll accountability.
- Starting next week the first employee for the dedicated crisis responder program will start working in Skagit to train with Compass Health. Compass Health is sending one of their experienced dedicated crisis responders to help train our team.

Assistant Director Chennault commended the crew for their excellent response during the snow storm.

Interim Director Giffen had no comments.

Director Langdon commented that the City was not impacted by the AFTS breach.

CIO Mennie commented on positive attention Marysville has gotten in the news in recent weeks and noted she expects there will be more.

Human Resources Manager Lester commented that there is a need for Salary Commission members.

Director Mizell commented on great attendance for the recent movie event and noted that Bingo is happening on Friday.

City Attorney Walker had no comments.

CAO Hirashima congratulated Assistant Director Chennault and Utility Manager Latimer for all their work this winter with the wind and snow storms.

Call on Councilmembers

Councilmember Stevens had no comments.

Councilmember Vaughan had no comments.

Councilmember Richards thanked Public Works for all their work during the recent snow event.

Councilmember Muller also expressed appreciation to Public Works for keeping the streets free of flooding with all the rain they have had. He enjoyed the arts meeting on Friday and is getting excited about the new campus.

Councilmember King commented on the good turnout at the recent Coffee-with-a-Cop event. He and his daughter participated in the Parks Department's Hearts in the Park Scavenger Hunt and visited 14 parks. He is looking forward to the improvements on Cedar, especially the crosswalk to the Opera House.

Councilmember James was pleased about the House Bill getting voted out of the committee and hopes it passes the vote on the floor. He also enjoyed being part of the art meeting process.

Council President Norton had no comments.

Adjournment

The meeting was adjourned at 7:59.

Approved this _____ day of _____, 2021.

Mayor
Jon Nehring

Update
Index #14

City Council



**1049 State Avenue
Marysville, WA 98270**

**Special Meeting
Minutes
February 19, 2021
9:00 a.m.
Via Zoom**

Present:

Mayor: Jon Nehring

Council: Councilmember Tom King, Councilmember Mark James, Councilmember Michael Stevens, Councilmember Steve Muller

Staff: Chief Administrative Officer (CAO) Gloria Hirashima, Parks Director Tara Mizell, Assistant Parks Director Dave Hall, Project Manager Bryan Milligan, Executive Services Coordinator Leah Tocco, Public Art Coordinator Carol Thomas

Also Present: Ginger Oliphant, Chris Raef, Susan Zoccola, Jack Gunter, Paul Vexler, Seth Rolland

Presentations

The group heard presentations from three artists, Jack Gunter, Susan Zoccola and Paul Vexler/Seth Rolland.

The first presentation was from Jack Gunter who has been selected to do the exterior mural on the west wall of the civic center. Direction was provided to Jack on a few items they would like to see updated on the next draft.

Susan Zoccola did a presentation on a suspended sculpture to be featured in the main lobby open stairwell. The project will include the design, fabrication, engineering specifications and installation. The group selected Susan's submission to be the piece featured in the lobby.

Paul Vexler/Seth Rolland also did a presentation on a suspended sculpture for the lobby. The group was so impressed with their work that the group elected to have them do an art display to be located in the new city council chambers. This work will be done in a few months after further design.

Adjournment – 11:30 a.m.

Approved this _____ day of _____, 2021.

Mayor
Jon Nehring

Index #1

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

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

RECOMMENDED ACTION:

The Finance and Executive Departments recommend City Council approve the February 10, 2021 Misc. payroll in the amount \$29,991.62, paid by EFT Transactions and Check No. 33374 through 33375.

COUNCIL ACTION:

Index #2

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

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

Please see attached.

RECOMMENDED ACTION:

The Finance and Executive Departments recommend City Council approve the February 17, 2021 claims in the amount of \$3,352,892.43 paid by EFT transactions and Check No.'s 146497 through 146653.

COUNCIL ACTION:

BLANKET CERTIFICATION
CLAIMS
FOR
PERIOD-02

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 **\$3,352,892.43 PAID BY EFT TRANSACTIONS AND CHECK NO.'S 146497 THROUGH 146653**, 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 **8th DAY OF MARCH 2021**.

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 2/15/2021 TO 2/17/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146497	HRA VEBA TRUST	2/10/21 PAYROLL CONTRIBUTIONS	PAYROLL CLEARING	79,869.62
146498	PREMERA BLUE CROSS	PREMERA CLAIMS PAID 2/1-2/6	MEDICAL CLAIMS	49,226.94
146499	PREMERA BLUE CROSS	PREMERA CLAIMS PAID 2/7-2/13	MEDICAL CLAIMS	61,411.96
146500	LICENSING, DEPT OF	CPL BATCH 02/11/21	INTERGOVERNMENTAL CUST	147.00
	LICENSING, DEPT OF		INTERGOVERNMENTAL CUST	936.00
	LICENSING, DEPT OF		INTERGOVERNMENTAL CUST	990.00
146501	LYDIG CONSTRUCTION	CIVIC CENTER PAYMENT #13	CAPITAL EXPENDITURES	2,755,470.75
146502	ALL BATTERY SALES &	HEADLAMPS	ER&R	49.80
	ALL BATTERY SALES &	HEADLAMP	ER&R	59.55
	ALL BATTERY SALES &	BATTERY	EQUIPMENT RENTAL	123.07
146503	AMAZON CAPITAL	CREDIT MEMO	POLICE INVESTIGATION	-14.20
	AMAZON CAPITAL	MOVIE SKY HIGH	RECREATION SERVICES	5.45
	AMAZON CAPITAL	BULBS	POLICE ADMINISTRATION	8.66
	AMAZON CAPITAL	SUPPLIES	POLICE INVESTIGATION	19.28
	AMAZON CAPITAL	SOLAR CHARGER	PARK & RECREATION FAC	21.30
	AMAZON CAPITAL	CRAYONS	POLICE PATROL	56.80
	AMAZON CAPITAL	ADAPTER	RECREATION SERVICES	74.74
	AMAZON CAPITAL	DISINFECTING WIPES	PUBLIC HEALTH EXPENSE	85.20
	AMAZON CAPITAL	LED SHOP LIGHT	PARK & RECREATION FAC	87.31
	AMAZON CAPITAL	POST HOLE DIGGER	PARK & RECREATION FAC	115.72
	AMAZON CAPITAL	TRANSMITTER	RECREATION SERVICES	131.15
	AMAZON CAPITAL	HEADSET - COVID	COMMUNITY DEVELOPMENT-	195.00
146504	AMERICAN PLANNING	MEMBERSHIP DUES GEMMER	COMMUNITY DEVELOPMENT-	420.00
146505	APEX HYDROVAC TOOLS	LEADER HOSE	STORM DRAINAGE	288.55
	APEX HYDROVAC TOOLS		SEWER MAIN COLLECTION	288.55
146506	AQUALINE PLUMBING	REFUND ELECTRICAL PERMIT FEE	COMMUNITY DEVELOPMENT	100.00
146507	ARAMARK UNIFORM	UNIFORM CLEANING	SMALL ENGINE SHOP	6.56
	ARAMARK UNIFORM		EQUIPMENT RENTAL	56.56
146508	ARIES BLDG SYSTEMS	PORTABLE BUILDING RENTAL	STORM DRAINAGE	524.64
	ARIES BLDG SYSTEMS		SEWER SERV MAINT	524.64
146509	ARLINGTON, CITY OF	STORMWATER FEE	WATER FILTRATION PLANT	49.45
	ARLINGTON, CITY OF	EVOC RENTAL RATE	POLICE TRAINING-FIREARMS	289.20
146510	AYLESWORTH, GARY	UB REFUND	WATER/SEWER OPERATION	19.15
146511	BALLENGER, SHARON		WATER/SEWER OPERATION	25.87
146512	BAY ALARM COMPANY	ALARM INSTALLATION	PUBLIC SAFETY BLDG	125.70
146513	BEACH STREET TOPSOIL	BLACK BARK	HYDRANTS	100.45
146514	BELL, MIKAL & DAWNA	UB REFUND	WATER/SEWER OPERATION	6.17
146515	BICKFORD FORD	CREDIT	ER&R	-1,499.86
	BICKFORD FORD	SPARK PLUGS	EQUIPMENT RENTAL	521.40
	BICKFORD FORD	MOULDINGS/PADS/ROTORS	ER&R	1,499.86
146516	BILLING DOCUMENT SPE	BILL PRINTING 1/1-1/15	UTILITY BILLING	4,587.17
146517	BRAKE AND CLUTCH	PARKING BRAKES	EQUIPMENT RENTAL	200.60
146518	BROWNS PLUMBING	LEAF NETS	WASTE WATER TREATMENT F	71.97
146519	C M HEATING	REFUND MECHANICAL PERMIT FEE	NON-BUS LICENSES AND PEF	70.00
146520	CASCADE COLUMBIA	POLY ALUMINUM CHLORIDE	WASTE WATER TREATMENT F	13,146.96
	CASCADE COLUMBIA		WASTE WATER TREATMENT F	13,664.38
	CASCADE COLUMBIA		WASTE WATER TREATMENT F	13,986.34
	CASCADE COLUMBIA		WASTE WATER TREATMENT F	14,032.33
146521	CEDAR POINTE	UB REFUND 3905 172ND ST NE ARLINGTON WA 98223	WATER/SEWER OPERATION	255.60
146522	CITY OF MOUNT VERNON	INVESTIGATIVE ASSISTANCE	POLICE INVESTIGATION	500.00
146523	CIVICLENS	ARCGIS MONITOR	UTIL ADMIN	12,000.00
146524	CNR INC	MAINTENANCE CONTRACT	COMPUTER SERVICES	1,364.54
146525	COASTAL FARM & HOME	UNIFORM REPLACEMENT PHELPS	PARK & RECREATION FAC	-54.64
	COASTAL FARM & HOME	UNIFORM KINNEY	TRANSPORTATION MANAGEM	56.79
	COASTAL FARM & HOME	UNIFORM REPLACEMENT LANCE	UTIL ADMIN	96.15
	COASTAL FARM & HOME	UNIFORM REPLACEMENT MATTHEWS	TRANSPORTATION MANAGEM	96.16
	COASTAL FARM & HOME	UNIFORM REPLACEMENT DEAVER	TRANSPORTATION MANAGEM	104.92
	COASTAL FARM & HOME	UNIFORM KINNEY	TRANSPORTATION MANAGEM	117.96

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146525	COASTAL FARM & HOME	UNIFORM REPLACEMENT DEAVER	TRANSPORTATION MANAGEM	131.13
	COASTAL FARM & HOME	UNIFORM REPLACEMENT MATTHEWS	TRANSPORTATION MANAGEM	131.15
	COASTAL FARM & HOME	UNIFORM PEASLEE	UTIL ADMIN	155.18
	COASTAL FARM & HOME		UTIL ADMIN	155.19
	COASTAL FARM & HOME	UNIFORM GUENZLER	UTIL ADMIN	157.33
	COASTAL FARM & HOME		UTIL ADMIN	194.09
	COASTAL FARM & HOME	UNIFORM WETZEL	GENERAL SERVICES - OVERH	231.64
	COASTAL FARM & HOME	UNIFORM REPLACEMENT STAIR	UTIL ADMIN	257.90
	COASTAL FARM & HOME	UNIFORM MALLAHAN	UTIL ADMIN	336.53
	COASTAL FARM & HOME	UNIFORM REPLACEMENT AKAU	PARK & RECREATION FAC	358.44
	COASTAL FARM & HOME	UNIFORM REPLACEMENT PHELPS	PARK & RECREATION FAC	432.75
146526	COMMERCIAL ALARM	FIRE PANEL	OPERA HOUSE	5,984.18
146527	COMMERCIAL FIRE	FIRE EXTINGUISHER MAINTENANCE	UTIL ADMIN	167.42
	COMMERCIAL FIRE		MAINT OF GENL PLANT	167.42
	COMMERCIAL FIRE		WASTE WATER TREATMENT F	167.42
	COMMERCIAL FIRE	SPRINKLER SYSTEM TEST	SUNNYSIDE FILTRATION PLAI	352.50
	COMMERCIAL FIRE	ALARM SYSTEM TEST	MAINTENANCE	368.75
	COMMERCIAL FIRE	SPRINKLER SYSTEM TEST	WATER FILTRATION PLANT	425.00
	COMMERCIAL FIRE	EXTINGUISHERS	ER&R	462.24
	COMMERCIAL FIRE	BACKFLOW SYSTEM TEST	CITY HALL	591.25
	COMMERCIAL FIRE	ALARM SYSTEM TEST	PUBLIC SAFETY BLDG	780.00
146528	CONSOLIDATED TECH	IGN MONTHLY CHARGE	OFFICE OPERATIONS	350.00
146529	COOP SUPPLY	WOOD POSTS	PARK & RECREATION FAC	12.01
	COOP SUPPLY	HOLE DIGGER	PARK & RECREATION FAC	98.29
146530	CORE & MAIN LP	CONCRETE MIX	WATER DIST MAINS	55.16
	CORE & MAIN LP	MISCELLANEOUS	WATER SERVICE INSTALL	2,584.06
	CORE & MAIN LP	METER BOX/LIDS	WATER SERVICE INSTALL	7,000.40
146531	CRITERION PICTURES	MOVIE SHOWING 2/5/21	RECREATION SERVICES	350.00
146532	DABESTANI, AL	UB REFUND	WATER/SEWER OPERATION	193.79
146533	DAILY JOURNAL OF COM	LEGAL ADVERTISEMENT	SEWER CAPITAL PROJECTS	112.70
	DAILY JOURNAL OF COM		GMA - STREET	640.70
146534	DEAVER, JAMES	ELECTRICAL LICENSE RENEWAL	TRANSPORTATION MANAGEM	72.70
146535	DICKS TOWING	TOWING	POLICE PATROL	77.47
	DICKS TOWING		POLICE PATROL	147.56
146536	DK SYSTEMS, INC.	LABOR FOR HEATING	OPERA HOUSE	106.57
	DK SYSTEMS, INC.	THERMOSTAT	OPERA HOUSE	669.63
146537	DMH INDUSTRIAL	MOTOR INSTALLATION	WASTE WATER TREATMENT F	1,449.36
146538	E&E LUMBER	PVC ELBOW	WATER DIST MAINS	1.54
	E&E LUMBER	ROOF MATERIAL	WATER QUAL TREATMENT	22.94
	E&E LUMBER	DRYER VENT	SOLID WASTE OPERATIONS	36.60
	E&E LUMBER	SUPPLIES	PARK & RECREATION FAC	40.19
	E&E LUMBER	SIDE BOARDS	STORM DRAINAGE	57.58
	E&E LUMBER		SEWER MAIN COLLECTION	57.59
	E&E LUMBER	SHOP SUPPLIES	TRANSPORTATION MANAGEM	58.87
	E&E LUMBER	SEALANT/BRUSHES	PARK & RECREATION FAC	65.63
	E&E LUMBER	PAINT	PUMPING PLANT	70.44
	E&E LUMBER	SUPPLIES	PUMPING PLANT	113.15
	E&E LUMBER	PLYWOOD	PARK & RECREATION FAC	154.65
	E&E LUMBER	METAL ROOFING	PUMPING PLANT	470.09
	E&E LUMBER	LUMBER	PARK & RECREATION FAC	1,464.07
146539	EAST JORDAN IRON WOR	VALVE BOX RISERS	WATER DIST MAINS	848.93
146540	EDGE ANALYTICAL	LAB ANALYSIS	WATER QUAL TREATMENT	12.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	12.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	12.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	15.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	15.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	15.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	15.00

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146540	EDGE ANALYTICAL	LAB ANALYSIS	WATER QUAL TREATMENT	15.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	15.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	15.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	15.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	30.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	30.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	30.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	216.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	216.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	216.00
	EDGE ANALYTICAL		WATER QUAL TREATMENT	216.00
146541	EDWARDS, DEVON	UB REFUND	WATER/SEWER OPERATION	165.69
146542	EMPLOYMENT SECURITY	Q4 2020	EMPLOYEE BENEFIT PROGR/	8,949.45
146543	EVERETT STEEL CO	STEEL FLAT BAR	EQUIPMENT RENTAL	44.81
146544	EVERETT, CITY OF	LAB ANALYSIS	WATER QUAL TREATMENT	237.60
146545	FAMILY PET MEDICAL	VET SERVICES	K9 PROGRAM	23.66
	FAMILY PET MEDICAL		K9 PROGRAM	24.00
146546	FELDMAN & LEE P.S.	PUBLIC DEFENDER CONTRACT	PUBLIC DEFENSE	52,000.00
146547	FELLOWS SAVANNAH A P	UB REFUND	WATER/SEWER OPERATION	65.30
146548	FIRE PROTECTION INC	FIRE ALARM MONITORING	MAINTENANCE	262.32
	FIRE PROTECTION INC		PUBLIC SAFETY BLDG	262.32
146549	FIRESTONE	TIRES	EQUIPMENT RENTAL	490.45
146550	FOREMOST PROMOTIONS	SUPPLIES	CRIME PREVENTION	131.49
146551	FROEHLICH, JULIE & T	UB REFUND	GARBAGE	67.71
146552	GEOTEST SERVICES INC	PERIOD ENDING 1/31/21	GMA - STREET	860.20
146553	GFOA	MEMBERSHIP DUE LANGDON/BERG/NIELD	FINANCE-GENL	595.00
146554	GO, SAMUEL F JR & RA	UB REFUND	WATER/SEWER OPERATION	10.80
146555	GOTCHA PEST CONTROL	RAT TREATMENT	PUBLIC SAFETY BLDG	273.25
146556	GRAINGER	FILTER MAGENTA	WASTE WATER TREATMENT F	12.51
	GRAINGER	SUPPLIES	UTIL ADMIN	16.15
	GRAINGER	RESPIRATOR	WASTE WATER TREATMENT F	18.31
	GRAINGER	SUPPLIES	UTIL ADMIN	32.77
	GRAINGER	LED SPOTLIGHT	ER&R	114.71
	GRAINGER	INVENTORY	ER&R	131.93
	GRAINGER	SUPPLIES	UTIL ADMIN	164.60
	GRAINGER	BLOOD BORNE PATHOGEN KIT	ER&R	205.39
	GRAINGER	STILLAGUAMISH WTP SUPPLIES	WATER FILTRATION PLANT	310.94
	GRAINGER	SAFETY HARNESS	TRANSPORTATION MANAGEM	492.29
146557	GRANDVIEW HOMES LLC	HYDRANT METER	WATER-UTILITIES/ENVIRONM	-64.35
	GRANDVIEW HOMES LLC		WATER/SEWER OPERATION	1,150.00
146558	GRANITE CONST	ASPHALT	ROADWAY MAINTENANCE	131.76
	GRANITE CONST		ROADWAY MAINTENANCE	1,465.18
146559	GRAY AND OSBORNE	PROFESSIONAL SERVICES 1/1-1/30	STORM DRAINAGE	2,356.50
	GRAY AND OSBORNE	SERVICES FROM 1/1-1/30	SURFACE WATER CAPITAL PF	10,366.36
146560	GREENSHIELDS	FLARES	POLICE PATROL	137.25
	GREENSHIELDS		POLICE PATROL	664.29
146561	GREG RAIRDONS DODGE	HEADLIGHT ASSEMBLIES	EQUIPMENT RENTAL	372.59
146562	HACH COMPANY	PH GEL PROBE	WASTE WATER TREATMENT F	451.32
146563	HANGER, DENNIS L	UB REFUND	WATER/SEWER OPERATION	205.94
146564	HAPP, BILLEIGH LYNN		GARBAGE	30.80
146565	HAZEN, DANIEL EDWARD	CHAPLIAN STIPEND	POLICE ADMINISTRATION	750.00
146566	HD FOWLER COMPANY	CREDIT BACKFLOW ASSEMBLY	WATER CROSS CNTL	-726.81
	HD FOWLER COMPANY	BACKFLOW METER	WATER CROSS CNTL	726.81
	HD FOWLER COMPANY	ADAPTER FOR HYDRANT	HYDRANTS	3,096.26
146567	HDR ENGINEERING	PROFESSIONAL SERVICES	GMA - STREET	17,989.35
146568	HOME DEPOT USA	SWIFFER DUSTER	PURCHASING/CENTRAL STOF	4.65
	HOME DEPOT USA	SWIFFER DUSTER REFILL	PURCHASING/CENTRAL STOF	12.81
	HOME DEPOT USA	REPLACEMENT VACUUM BAGS	CUSTODIAL SERVICES	13.44

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146568	HOME DEPOT USA	PROTEAM PROFORCE	CUSTODIAL SERVICES	340.72
	HOME DEPOT USA	DISPOSABLE MASKS	ECONOMIC SUPPORT	715.17
	HOME DEPOT USA	TOILET PAPER/TOWELS	CUSTODIAL SERVICES	996.82
146569	HONLE UV AMERICA	UV SENSOR	WATER/SEWER OPERATION	-36.92
	HONLE UV AMERICA		WATER QUAL TREATMENT	433.92
146570	HOUSE OF UPHOLSTERY	RECOVER SEAT	EQUIPMENT RENTAL	158.49
146571	HWA GEOSCIENCES	PROFESSIONAL SERVICES	GMA-PARKS	19,139.41
146572	INTEGRITY ELECTRIC	REFUND ELECTRICAL PERMIT FEE	COMMUNITY DEVELOPMENT	50.00
146573	INTERMOUNTAIN LOCK	DEADBOLT	PARK & RECREATION FAC	79.34
	INTERMOUNTAIN LOCK		MAINT OF GENL PLANT	79.35
146574	KANEHEN, GREGORY	CHAPLAIN STIPEND	POLICE ADMINISTRATION	750.00
146575	KAZEN, ROBERT & SAND	UB REFUND	WATER/SEWER OPERATION	114.02
146576	KELLER SUPPLY COMPAN	FLUSH TOILET TANK	PUBLIC SAFETY BLDG	264.93
146577	KPG, INC PS	PROFESSIONAL SERVICES	GMA - STREET	5,015.38
146578	LAB/COR, INC.	LAB ANALYSIS	STORM DRAINAGE	240.00
146579	LASTING IMPRESSIONS	FLEECE BEANIES	ER&R	1,004.16
146580	LAYTON TREE CONSULT	CONSULTING ARBORIST SERVICES	FORESTRY MAINTENANCE	245.55
	LAYTON TREE CONSULT		FORESTRY MAINTENANCE	304.55
146581	LES SCHWAB TIRE CTR	SERVICE CALL FOR FLAT TIRE	EQUIPMENT RENTAL	240.44
	LES SCHWAB TIRE CTR	TIRES	ER&R	536.01
146582	LOWES HIW INC	27 GALLON TOTES	SOURCE OF SUPPLY	22.78
	LOWES HIW INC	ALL WEATHER ROOF REPAIR	PUMPING PLANT	82.95
	LOWES HIW INC	PROPANE TORCH CYLINDER	ER&R	140.93
146583	MACLEOD RECKORD,PLLC	PROFESSIONAL SERVICES	GMA-PARKS	5,035.90
146584	MALLET, DESHAUN	UB REFUND	WATER/SEWER OPERATION	33.07
146585	MARAMOT, JULIUS	REFUND COVID	PARKS-RENTS & ROYALTIES	400.00
146586	MARYSVILLE PRINTING	PRINTING SERVICES	POLICE PATROL	956.38
146587	MARYSVILLE, CITY OF	15524 SMOKEY POINT BLVD	PUBLIC SAFETY BLDG	198.32
	MARYSVILLE, CITY OF	#980098000814	SUNNYSIDE FILTRATION PLAI	289.50
	MARYSVILLE, CITY OF	514 DELTA AVE	PARK & RECREATION FAC	693.54
146588	MARYSVILLE, CITY OF	PERMIT FOR WATER METERS	GMA-PARKS	1,410.00
146589	MCCAIN TRAFFIC SPLY	REPAIR OF WIAAPS BUTTON	TRANSPORTATION MANAGEM	645.97
146590	MOBILEGUARD, INC.	TEXT MESSAGE ARCHIVING	COMMUNITY DEVELOPMENT-	7.85
	MOBILEGUARD, INC.		COMMUNITY SERVICES UNIT	7.85
	MOBILEGUARD, INC.		PROPERTY TASK FORCE	7.85
	MOBILEGUARD, INC.		PARK & RECREATION FAC	7.85
	MOBILEGUARD, INC.		LEGAL-GENL	7.85
	MOBILEGUARD, INC.		PERSONNEL ADMINISTRATIOI	7.85
	MOBILEGUARD, INC.		SOLID WASTE CUSTOMER EX	7.85
	MOBILEGUARD, INC.		FACILITY MAINTENANCE	7.85
	MOBILEGUARD, INC.		MUNICIPAL COURTS	15.70
	MOBILEGUARD, INC.		YOUTH SERVICES	23.55
	MOBILEGUARD, INC.		OFFICE OPERATIONS	23.55
	MOBILEGUARD, INC.		COMMUNITY SERVICES UNIT	23.55
	MOBILEGUARD, INC.		RECREATION SERVICES	23.55
	MOBILEGUARD, INC.		WATER QUAL TREATMENT	23.55
	MOBILEGUARD, INC.		GENERAL SERVICES - OVERH	31.40
	MOBILEGUARD, INC.		CUSTODIAL SERVICES	31.40
	MOBILEGUARD, INC.		LEGAL - PROSECUTION	39.25
	MOBILEGUARD, INC.		COMPUTER SERVICES	42.44
	MOBILEGUARD, INC.		EXECUTIVE ADMIN	47.10
	MOBILEGUARD, INC.		DETENTION & CORRECTION	47.10
	MOBILEGUARD, INC.		STORM DRAINAGE	47.10
	MOBILEGUARD, INC.		POLICE INVESTIGATION	70.65
	MOBILEGUARD, INC.		WASTE WATER TREATMENT F	70.65
	MOBILEGUARD, INC.		ENGR-GENL	78.50
	MOBILEGUARD, INC.		UTIL ADMIN	94.20
	MOBILEGUARD, INC.		POLICE ADMINISTRATION	133.45

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146590	MOBILEGUARD, INC.	TEXT MESSAGE ARCHIVING	POLICE PATROL	408.20
146591	MOTOR TRUCKS	FUEL/WATER SEPARATORS	ER&R	199.89
	MOTOR TRUCKS	CHEVRON COOLANT	ER&R	233.92
146592	MOUNTAIN MIST	EQUIPMENT RENTAL	COMMUNITY CENTER	1.09
	MOUNTAIN MIST	WATER COOLER	WASTE WATER TREATMENT F	15.30
	MOUNTAIN MIST		SEWER MAIN COLLECTION	15.30
	MOUNTAIN MIST		SOLID WASTE OPERATIONS	15.31
146593	NAPA AUTO PARTS	CREDIT FOR WHEEL BEARING	EQUIPMENT RENTAL	-134.37
	NAPA AUTO PARTS	CREDIT FOR DEPOSITS	EQUIPMENT RENTAL	-132.25
	NAPA AUTO PARTS	GAS ADDITIVE	EQUIPMENT RENTAL	5.44
	NAPA AUTO PARTS	RETAINER CLIP	EQUIPMENT RENTAL	10.45
	NAPA AUTO PARTS	WIPER BLADES	EQUIPMENT RENTAL	16.00
	NAPA AUTO PARTS	GAS CAP	EQUIPMENT RENTAL	16.42
	NAPA AUTO PARTS	CONNECTION PLUG	EQUIPMENT RENTAL	22.13
	NAPA AUTO PARTS	OIL FILTER	EQUIPMENT RENTAL	22.23
	NAPA AUTO PARTS	FANBELT	EQUIPMENT RENTAL	24.25
	NAPA AUTO PARTS	SERPENTINE BELT	EQUIPMENT RENTAL	35.57
	NAPA AUTO PARTS	FRONT CALIPERS	EQUIPMENT RENTAL	267.68
	NAPA AUTO PARTS	FILTERS	ER&R	425.05
	NAPA AUTO PARTS	BRAKES	EQUIPMENT RENTAL	446.53
146594	NCSI	BACKGROUND CHECKS JAN 2021	PERSONNEL ADMINISTRATIOI	37.00
146595	NESS & CAMPBELL CRAN	CRANE WORK	WASTE WATER TREATMENT F	1,021.96
146596	NORTH SOUND HOSE	BRASS PARTS	WATER DIST MAINS	214.94
	NORTH SOUND HOSE	HOSE REPAIR	SEWER MAIN COLLECTION	453.55
146597	NORTHSTAR CHEMICAL	CREDIT INVOICE 187441	WASTE WATER TREATMENT F	-2,460.00
	NORTHSTAR CHEMICAL	SODIUM HYPOCHLORITE	WASTE WATER TREATMENT F	2,460.00
	NORTHSTAR CHEMICAL		WASTE WATER TREATMENT F	2,688.78
146598	NORTHWESTERN AUTO	FRONT BUMPER REPAIR	EQUIPMENT RENTAL	1,379.15
146599	OFFICE DEPOT	OFFICE SUPPLIES	COMMUNITY DEVELOPMENT-	7.77
	OFFICE DEPOT	COPY PAPER	SEWER MAIN COLLECTION	13.97
	OFFICE DEPOT	OFFICE SUPPLIES	COMMUNITY DEVELOPMENT-	15.72
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	21.85
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	36.70
	OFFICE DEPOT	BRAIDED CABLE	WATER DIST MAINS	41.51
	OFFICE DEPOT	COPY PAPER	ENGR-GENL	61.10
	OFFICE DEPOT	OFFICE SUPPLIES	UTILITY BILLING	62.05
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	67.71
	OFFICE DEPOT	COPY PAPER	UTIL ADMIN	70.86
	OFFICE DEPOT	WALL CALENDARS	SEWER MAIN COLLECTION	73.41
	OFFICE DEPOT	OFFICE SUPPLIES	COMMUNITY DEVELOPMENT-	90.72
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	130.46
146600	OREILLY AUTO PARTS	SENSOR WIRING	EQUIPMENT RENTAL	59.44
	OREILLY AUTO PARTS	AIR FLOW SENSOR	EQUIPMENT RENTAL	171.48
	OREILLY AUTO PARTS	CAPRICE STARTER	ER&R	179.42
146601	OTAK	PROFESSIONAL SERVICES 1/1 -1/29	GMA - STREET	2,127.50
146602	OWEN EQUIPMENT	BALL VALVE	EQUIPMENT RENTAL	365.32
146603	PACIFIC POWER BATTER	BATTERY REPLACEMENT	IS REPLACEMENT ACCOUNTS	128.08
146604	PACIFIC POWER GROUP	BLOCK HEATER REPLACEMENT	SEWER LIFT STATION	1,455.18
146605	PACIFIC TOPSOILS	DUMP FEES	ROADSIDE VEGETATION	800.00
	PACIFIC TOPSOILS	DUMP FEE	ROADSIDE VEGETATION	2,000.00
146606	PACWEST MACHINERY	MOUNTING GUTTER BROOM	EQUIPMENT RENTAL	479.62
146607	PARTSMASTER	FITTINGS	EQUIPMENT RENTAL	232.07
146608	PEACE OF MIND	PLANNING COMMISSION MINUTES	COMMUNITY DEVELOPMENT-	153.00
	PEACE OF MIND	1/25 COUNCIL MINUTES	CITY CLERK	176.80
146609	PETROCARD SYSTEMS	FUEL	EQUIPMENT RENTAL	19.56
	PETROCARD SYSTEMS		ENGR-GENL	56.75
	PETROCARD SYSTEMS		DEVELOPMENT SERVICES	86.03
	PETROCARD SYSTEMS		COMMUNITY DEVELOPMENT-	170.08

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 INVOICE LIST**

FOR INVOICES FROM 2/15/2021 TO 2/17/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146609	PETROCARD SYSTEMS	FUEL	FACILITY MAINTENANCE	236.62
	PETROCARD SYSTEMS		PARK & RECREATION FAC	768.22
	PETROCARD SYSTEMS		GENERAL SERVICES - OVERH	1,993.19
	PETROCARD SYSTEMS		MAINT OF EQUIPMENT	3,177.27
	PETROCARD SYSTEMS		SOLID WASTE OPERATIONS	3,477.97
	PETROCARD SYSTEMS		POLICE PATROL	7,128.81
146610	PGC INTERBAY LLC	GOLF COURSE MAINTENANCE	PRO-SHOP	8,012.23
	PGC INTERBAY LLC		MAINTENANCE	12,404.96
146611	PILCHUCK RENTALS	EQUIPMENT RENTAL	ROADWAY MAINTENANCE	419.71
	PILCHUCK RENTALS	GENIE LIFT RENTAL	TRANSPORTATION MANAGEM	477.98
	PILCHUCK RENTALS	GENIE BOOM RENTAL	PARK & RECREATION FAC	907.19
	PILCHUCK RENTALS	EQUIPMENT RENTAL	EXECUTIVE ADMIN	3,077.89
146612	PLATT ELECTRIC	CREDIT	WATER DIST MAINS	-185.62
	PLATT ELECTRIC	FITTINGS	SOURCE OF SUPPLY	31.55
	PLATT ELECTRIC		SOURCE OF SUPPLY	33.43
	PLATT ELECTRIC	40 WATT	UTIL ADMIN	123.29
	PLATT ELECTRIC	GENERATOR HOOK UP	WATER DIST MAINS	180.98
	PLATT ELECTRIC		WATER DIST MAINS	185.62
	PLATT ELECTRIC	152ND ST LIGHTING	STREET LIGHTING	290.81
	PLATT ELECTRIC	LIGHTS	SEWER LIFT STATION	482.42
	PLATT ELECTRIC		WASTE WATER TREATMENT F	1,269.72
146613	POSTAL SERVICE	POSTAGE REIMBURSEMENT	UTIL ADMIN	127.39
	POSTAL SERVICE		COMMUNITY DEVELOPMENT-	620.43
146614	PUD	ACCT #201142098	PARK & RECREATION FAC	8.64
	PUD	ACCT #202177861	PUMPING PLANT	13.73
	PUD	ACCT #205481823	GOLF ADMINISTRATION	17.58
	PUD	ACCT #221303498	STREET LIGHTING	26.73
	PUD	ACCT #201142155	TRANSPORTATION MANAGEM	36.26
	PUD	ACCT #204829691	STREET LIGHTING	48.68
	PUD	ACCT #200660439	STREET LIGHTING	49.00
	PUD	ACCT #220339238	TRAFFIC CONTROL DEVICES	56.04
	PUD	ACCT #204879134	TRAFFIC CONTROL DEVICES	72.50
	PUD	ACCT #221610405	STREET LIGHTING	72.79
	PUD	ACCT #203996343	STREET LIGHTING	79.18
	PUD	ACCT #202368197	PUMPING PLANT	140.21
	PUD	9623 55TH AVE NE	PARK & RECREATION FAC	158.96
	PUD	ACCT #222592917	PARK & RECREATION FAC	160.78
	PUD	ACCT #202294336	STREET LIGHTING	191.34
	PUD	ACCT #200812808	PUMPING PLANT	262.96
	PUD	ACCT #220020531	STREET LIGHTING	279.71
	PUD	ACCT #200164598	SOURCE OF SUPPLY	414.17
	PUD	ACCT #202461554	SEWER LIFT STATION	660.52
	PUD	POLE RENTAL CONTRACT	UTIL ADMIN	839.40
	PUD	ACCT #201098969	PUMPING PLANT	1,564.24
146615	PUGET SOUND ENERGY	ACCT #220002768939	PUBLIC SAFETY BLDG	30.97
	PUGET SOUND ENERGY	ACCT #220015485349	OPERA HOUSE	52.34
	PUGET SOUND ENERGY	ACCT #220015485380	OPERA HOUSE	110.88
	PUGET SOUND ENERGY	ACCT #200007781657	GOLF ADMINISTRATION	115.07
	PUGET SOUND ENERGY	ACCT #200007052364	MAINT OF GENL PLANT	137.02
	PUGET SOUND ENERGY	ACCT #220015485703	OPERA HOUSE	141.20
	PUGET SOUND ENERGY	ACCT #200004804056	COURT FACILITIES	386.15
	PUGET SOUND ENERGY	ACCT #2200092074345	OPERA HOUSE	476.79
	PUGET SOUND ENERGY	ACCT #200023493808	CITY HALL	478.34
	PUGET SOUND ENERGY	ACCT #200013812314	MAINT OF GENL PLANT	1,119.63
	PUGET SOUND ENERGY	ACCT #200010703029	PUBLIC SAFETY BLDG	1,640.36
146616	PUGET SOUND REGIONAL	PSRC MEMBERSHIP DUES	NON-DEPARTMENTAL	20,807.00
146617	PUGET SOUND SECURITY	KEYS	POLICE PATROL	8.20
146618	REECE TRUCKING	DUMP FEES	PARK & RECREATION FAC	108.70

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 2/15/2021 TO 2/17/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146618	REECE TRUCKING	DUMP FEES	ROADWAY MAINTENANCE	132.60
	REECE TRUCKING		WATER DIST MAINS	242.61
	REECE TRUCKING		ROADWAY MAINTENANCE	242.61
	REECE TRUCKING		SIDEWALK MAINTENANCE	391.02
146619	ROSEMOUNT ANALYTICAL	CHLORINE SENSOR	SUNNYSIDE FILTRATION PLANT	2,113.09
146620	ROY ROBINSON	CREDIT	EQUIPMENT RENTAL	-116.37
	ROY ROBINSON	RADIATOR HOSE	EQUIPMENT RENTAL	28.08
	ROY ROBINSON	OXYGEN SENSOR	EQUIPMENT RENTAL	93.46
	ROY ROBINSON	HEATER HOSE	EQUIPMENT RENTAL	116.37
	ROY ROBINSON	TRUNK LATCH	EQUIPMENT RENTAL	131.89
	ROY ROBINSON	HEATER HOSE	EQUIPMENT RENTAL	144.36
	ROY ROBINSON	HOSE	EQUIPMENT RENTAL	152.64
	ROY ROBINSON	STARTER ASSEMBLY	EQUIPMENT RENTAL	272.09
146621	SCCFOA	ANNUAL DUES LANGDON/BERG/NIELD	CITY CLERK	45.00
146622	SEBCO INC	UB REFUND 3815 124TH ST NE 98271 TNT BENEFIT	WATER/SEWER OPERATION	738.71
146623	SEPULVEDA, IVONNE &	UB REFUND	WATER/SEWER OPERATION	29.48
146624	SHERWIN WILLIAMS	PAINT	PARK & RECREATION FAC	63.82
146625	SHRED-IT US	MONTHLY SHREDDING SERVICE	EXECUTIVE ADMIN	11.19
	SHRED-IT US		LEGAL - PROSECUTION	11.20
146626	SMOKEY POINT CONCRET	DRAIN ROCK	STORM DRAINAGE	169.18
	SMOKEY POINT CONCRET		STORM DRAINAGE	196.53
146627	SNO CO FINANCE	BUILD UP #P201	EQUIPMENT RENTAL	4,353.81
146628	SOUND PUBLISHING	LEGAL ADVERTISEMENT	GMA - STREET	212.80
146629	SOUND SAFETY	UNIFORM GUNN	UTIL ADMIN	102.16
	SOUND SAFETY	UNIFORM BRISCOE	TRANSPORTATION MANAGEM	142.88
	SOUND SAFETY	UNIFORM WESSEL	UTIL ADMIN	145.30
	SOUND SAFETY	UNIFORM JESSEN	UTIL ADMIN	146.31
	SOUND SAFETY	UNIFORM HAYES	GENERAL SERVICES - OVERH	167.61
	SOUND SAFETY	UNIFORM HANNAHS	TRANSPORTATION MANAGEM	200.00
	SOUND SAFETY	UNIFORM WESSEL	UTIL ADMIN	200.00
	SOUND SAFETY	UNIFORM REISWIG	UTIL ADMIN	271.34
	SOUND SAFETY	UNIFORM HAYES	GENERAL SERVICES - OVERH	302.53
	SOUND SAFETY	UNIFORM RAIRDIN	SOLID WASTE OPERATIONS	317.80
	SOUND SAFETY	UNIFORM LINDBERG	UTIL ADMIN	346.49
146630	SPECIALIZED ARMAMENT	GUN REPAIR	GENERAL FUND	-40.92
	SPECIALIZED ARMAMENT		POLICE PATROL	480.92
146631	STAPLES	SPONGES	MUNICIPAL COURTS	3.60
	STAPLES	OFFICE SUPPLIES	PERSONNEL ADMINISTRATIO	10.15
	STAPLES		PERSONNEL ADMINISTRATIO	15.24
	STAPLES		PERSONNEL ADMINISTRATIO	16.50
	STAPLES	KEYBOARD/MOUSE	PERSONNEL ADMINISTRATIO	45.41
	STAPLES	DATE STAMPS	MUNICIPAL COURTS	63.27
	STAPLES	BATTERIES/TONER	MUNICIPAL COURTS	171.59
	STAPLES	OFFICE SUPPLIES	MUNICIPAL COURTS	173.26
	STAPLES		EXECUTIVE ADMIN	382.93
146632	STONEWAY ELECTRIC	COILS	SEWER LIFT STATION	809.13
146633	STRIPE RITE, INC.	RELEASE RETAINAGE 2019	CITY STREETS	8,208.40
146634	SUBURBAN PROPANE	PROPANE-PARKS OFFICE	PARK & RECREATION FAC	1,282.96
146635	SWANK MOTION PICTURE	MOVIE SHOWING 3/12/21	RECREATION SERVICES	375.00
146636	TESSCO INC	ANTENNAS	ER&R	337.51
	TESSCO INC		ER&R	337.51
146637	THYSSENKRUPP ELEVATO	PLATINUM	PUBLIC SAFETY BLDG	335.50
	THYSSENKRUPP ELEVATO		CITY HALL	335.50
146638	TRANSPORTATION SOLUT	PROFESSIONAL SERVICE 6/16 - 12/31/20	GMA - STREET	13,892.37
146639	TRANSPORTATION, DEPT	DECEMBER 20 PROJECT COST	GMA - STREET	2,836.92
	TRANSPORTATION, DEPT	DECEMBER 20 PROJECT COSTS	GMA-PARKS	3,494.65
146640	UTILITIES UNDERGROUN	EXCAVATION	UTILITY LOCATING	623.70
146641	VERA, PASCUAL	UB REFUND	WATER/SEWER OPERATION	62.91

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 2/15/2021 TO 2/17/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146642	WATSON, MARGARET	UB REFUND	WATER/SEWER OPERATION	80.30
146643	WAXIE SANITARY SUPPL	TRASH LINERS	PARK & RECREATION FAC	762.50
146644	WEISHAAR, MICHAEL &	UB REFUND	WATER/SEWER OPERATION	199.80
146645	WEST PAYMENT CENTER WEST PAYMENT CENTER	WEST INFORMATION 1/1 - 1/31/21	LEGAL-GENL	392.43
146646	WESTERN SYSTEMS	GUTTER BROOMS	LEGAL - PROSECUTION	392.43
146647	WFOA	MEMBERSHIP LANGDON	STREET CLEANING	163.69
146648	WHISTLE WORKWEAR	UNIFORM WARD	UTILITY BILLING	75.00
	WHISTLE WORKWEAR	UNIFORM SLENKER	UTIL ADMIN	123.49
	WHISTLE WORKWEAR	UNIFORM DAY	UTIL ADMIN	128.43
	WHISTLE WORKWEAR	UNIFORM MUNRO	SOLID WASTE OPERATIONS	128.46
	WHISTLE WORKWEAR	UNIFORM BILLIEU	SOLID WASTE OPERATIONS	137.33
	WHISTLE WORKWEAR		GENERAL SERVICES - OVERF	138.32
	WHISTLE WORKWEAR		UTIL ADMIN	142.27
	WHISTLE WORKWEAR		UTIL ADMIN	187.74
	WHISTLE WORKWEAR	UNIFORM DAY	SOLID WASTE OPERATIONS	187.75
	WHISTLE WORKWEAR	UNIFORM MUNRO	GENERAL SERVICES - OVERF	197.63
	WHISTLE WORKWEAR	UNIFORM SLENKER	UTIL ADMIN	197.63
	WHISTLE WORKWEAR	UNIFORM WARD	UTIL ADMIN	200.00
	WHISTLE WORKWEAR	UNIFORM WOOD	GENERAL SERVICES - OVERF	200.00
146649	WHITE CAP CONSTRUCT	WATER STREETS	ROADWAY MAINTENANCE	335.11
146650	WIDE FORMAT COMPANY	BASE CHARGE FEBRUARY 2021	UTIL ADMIN	130.07
146651	YOCKEY, DONALD & KAT	UB REFUND	WATER/SEWER OPERATION	267.69
146652	ZBIEGIEN, MICHAEL	UTILITY TAX REBATE	NON-DEPARTMENTAL	36.87
146653	ZIPLY FIBER	PHONE CHARGES	CITY CLERK	10.37
	ZIPLY FIBER		CRIME PREVENTION	10.37
	ZIPLY FIBER		PROPERTY TASK FORCE	10.37
	ZIPLY FIBER		SOLID WASTE CUSTOMER EX	10.37
	ZIPLY FIBER		GOLF ADMINISTRATION	10.37
	ZIPLY FIBER		PURCHASING/CENTRAL STOF	10.37
	ZIPLY FIBER		FACILITY MAINTENANCE	10.37
	ZIPLY FIBER		YOUTH SERVICES	20.74
	ZIPLY FIBER		RECREATION SERVICES	31.11
	ZIPLY FIBER		WATER QUAL TREATMENT	31.11
	ZIPLY FIBER		COMMUNITY SERVICES UNIT	41.48
	ZIPLY FIBER		LEGAL-GENL	41.48
	ZIPLY FIBER		PERSONNEL ADMINISTRATIO	41.48
	ZIPLY FIBER		GENERAL SERVICES - OVERF	41.48
	ZIPLY FIBER		STORM DRAINAGE	41.48
	ZIPLY FIBER		FINANCE-GENL	51.85
	ZIPLY FIBER		LEGAL - PROSECUTION	51.85
	ZIPLY FIBER		EQUIPMENT RENTAL	51.85
	ZIPLY FIBER	PHONE LINES	POLICE ADMINISTRATION	57.32
	ZIPLY FIBER		POLICE PATROL	57.32
	ZIPLY FIBER		COMMUNICATION CENTER	57.32
	ZIPLY FIBER		UTILITY BILLING	57.32
	ZIPLY FIBER		GENERAL SERVICES - OVERF	57.32
	ZIPLY FIBER		GOLF ADMINISTRATION	57.32
	ZIPLY FIBER		CITY HALL	57.36
	ZIPLY FIBER	PHONE CHARGES	PARK & RECREATION FAC	62.22
	ZIPLY FIBER		COMPUTER SERVICES	62.27
	ZIPLY FIBER		EXECUTIVE ADMIN	72.59
	ZIPLY FIBER		UTILITY BILLING	72.59
	ZIPLY FIBER		POLICE ADMINISTRATION	103.71
	ZIPLY FIBER		POLICE INVESTIGATION	103.71
	ZIPLY FIBER		WASTE WATER TREATMENT F	103.71
	ZIPLY FIBER		MUNICIPAL COURTS	114.08
	ZIPLY FIBER		OFFICE OPERATIONS	114.08
	ZIPLY FIBER	PHONE LINES	COMMUNITY DEVELOPMENT-	114.64

CITY OF MARYSVILLE
INVOICE LIST

FOR INVOICES FROM 2/15/2021 TO 2/17/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146653	ZIPLY FIBER	PHONE LINES	DETENTION & CORRECTION	114.64
	ZIPLY FIBER		OFFICE OPERATIONS	114.64
	ZIPLY FIBER		COMMUNITY CENTER	114.64
	ZIPLY FIBER		GOLF ADMINISTRATION	114.64
	ZIPLY FIBER	ACCT #3606575532	OPERA HOUSE	144.49
	ZIPLY FIBER	PHONE CHARGES	DETENTION & CORRECTION	155.56
	ZIPLY FIBER		COMMUNITY DEVELOPMENT-	165.93
	ZIPLY FIBER		UTIL ADMIN	176.30
	ZIPLY FIBER		ENGR-GENL	207.41
	ZIPLY FIBER	PHONE LINES	PARK & RECREATION FAC	229.29
	ZIPLY FIBER		WASTE WATER TREATMENT F	286.61
	ZIPLY FIBER		UTIL ADMIN	286.61
	ZIPLY FIBER	ACCT #3606585292	MUNICIPAL COURTS	367.78
	ZIPLY FIBER	PHONE CHARGES	POLICE PATROL	497.79

WARRANT TOTAL:

3,352,892.43

REASON FOR VOIDS:

INITIATOR ERROR

CHECK LOST/DAMAGED

Index #3

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

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

RECOMMENDED ACTION:

The Finance and Executive Departments recommend City Council approve the February 25, 2021 in the amount \$1,453,575.61, paid by EFT Transactions and Check No.33376 through 33384.

COUNCIL ACTION:

Index #4

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

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

Please see attached.

RECOMMENDED ACTION:

The Finance and Executive Departments recommend City Council approve the February 24, 2021 claims in the amount of \$668,855.00 paid by EFT transactions and Check No.'s 146654 through 146783.

COUNCIL ACTION:

BLANKET CERTIFICATION
CLAIMS
FOR
PERIOD-02

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 **\$668,855.00 PAID BY EFT TRANSACTIONS AND CHECK NO.'S 146654 THROUGH 146783**, 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 **8th DAY OF MARCH 2021.**

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY OF MARYSVILLE
 INVOICE LIST
 FOR INVOICES FROM 2/24/2021 TO 2/24/2021**

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146654	PREMERA BLUE CROSS	CLAIMS PAID 2/14-2/20	MEDICAL CLAIMS	42,642.50
146655	ABOU-ZAKI, KAMAL	INTERPRETER SERVICES - ARABIC	COURTS	125.00
146656	ABOUD, MOUSSA	UTILITY TAX REBATE	NON-DEPARTMENTAL	56.36
146657	ADKINS, HELEN	UB REFUND	WATER/SEWER OPERATION	174.34
146658	AMAZON CAPITAL	SUPPLIES	POLICE INVESTIGATION	10.92
	AMAZON CAPITAL		POLICE INVESTIGATION	20.76
	AMAZON CAPITAL		POLICE INVESTIGATION	28.42
	AMAZON CAPITAL		POLICE INVESTIGATION	39.88
	AMAZON CAPITAL		POLICE PATROL	41.52
	AMAZON CAPITAL		POLICE INVESTIGATION	43.67
	AMAZON CAPITAL	JAIL SUPPLIES	DETENTION & CORRECTION	73.76
	AMAZON CAPITAL	INMATE MEALS	DETENTION & CORRECTION	99.78
	AMAZON CAPITAL	KEYBOARD/MOUSE	COMPUTER SERVICES	145.29
	AMAZON CAPITAL	RUGGED PHONE CLIPS	COMPUTER SERVICES	218.01
	AMAZON CAPITAL	VARI-DESKS	POLICE PATROL	863.48
146659	AMSBURY, KAYLA	UB REFUND	WATER/SEWER OPERATION	5.91
146660	ANDERSON, CALE		WATER/SEWER OPERATION	138.52
146661	APS, INC.	POSTAGE MACHINE RENTAL	CITY CLERK	23.68
	APS, INC.		EXECUTIVE ADMIN	23.68
	APS, INC.		FINANCE-GENL	23.68
	APS, INC.		PERSONNEL ADMINISTRATIO	23.68
	APS, INC.		UTILITY BILLING	23.68
	APS, INC.		LEGAL - PROSECUTION	23.68
	APS, INC.		POLICE ADMINISTRATION	39.07
	APS, INC.		POLICE INVESTIGATION	39.08
	APS, INC.		POLICE PATROL	39.08
	APS, INC.		OFFICE OPERATIONS	39.08
	APS, INC.		DETENTION & CORRECTION	39.08
	APS, INC.		COMMUNITY DEVELOPMENT-	48.18
	APS, INC.		ENGR-GENL	48.18
	APS, INC.		UTIL ADMIN	48.18
146662	AVEY, JAMES	UTILITY TAX REBATE	NON-DEPARTMENTAL	23.46
146663	BANK OF AMERICA	HEADPHONES	MUNICIPAL COURTS	14.20
146664	BANK OF AMERICA	CREDIT PACK OF 3 ISTOCK	RECREATION SERVICES	33.00
146665	BANK OF AMERICA	TRAINING	LEGAL - PROSECUTION	2.17
	BANK OF AMERICA		LEGAL-GENL	35.00
146666	BANK OF AMERICA	GOOD TO GO	POLICE PATROL	109.50
146667	BANK OF AMERICA	DUES	POLICE ADMINISTRATION	115.00
146668	BANK OF AMERICA	REFRESHMENTS FOR INTERVIEWS	POLICE ADMINISTRATION	122.59
146669	BANK OF AMERICA	SUPPLY/GO TO MEETING	WATER/SEWER OPERATION	-7.49
	BANK OF AMERICA		WASTE WATER TREATMENT F	87.99
	BANK OF AMERICA		PUBLIC HEALTH EXPENSE	106.33
146670	BANK OF AMERICA	SUPPLIES/MEALS	GENERAL FUND	-18.22
	BANK OF AMERICA		POLICE ADMINISTRATION	77.58
	BANK OF AMERICA		POLICE ADMINISTRATION	274.18
146671	BANK OF AMERICA	REGISTRATIONS	CITY COUNCIL	335.00
146672	BANK OF AMERICA	TRAINING	UTIL ADMIN	-500.00
	BANK OF AMERICA		UTIL ADMIN	-8.65
	BANK OF AMERICA		UTIL ADMIN	45.00
	BANK OF AMERICA		SOLID WASTE OPERATIONS	49.95
	BANK OF AMERICA		TRAINING	85.00
	BANK OF AMERICA		ENGR-GENL	325.00
	BANK OF AMERICA		UTIL ADMIN	350.00
146673	BANK OF AMERICA	EMBEDDED SOCIAL WORKER	EMBEDDED SOCIAL WORKER	419.92
146674	BANK OF AMERICA	DUES/REGISTRATION	EXECUTIVE ADMIN	199.00
	BANK OF AMERICA		NON-DEPARTMENTAL	460.00
146675	BANK OF AMERICA	ADVERTISING	UTIL ADMIN	45.00
	BANK OF AMERICA		CUSTODIAL SERVICES	90.00

**CITY OF MARYSVILLE
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146675	BANK OF AMERICA	ADVERTISING	PERSONNEL ADMINISTRATIOI	102.66
	BANK OF AMERICA		UTIL ADMIN	460.00
146676	BANK OF AMERICA	VIDEO CONFERENCING/SUBSCRIPTIONS	FINANCE-GENL	8.95
	BANK OF AMERICA		COMMUNITY DEVELOPMENT-	213.14
	BANK OF AMERICA		IS REPLACEMENT ACCOUNTS	257.79
	BANK OF AMERICA		COMPUTER SERVICES	550.95
146677	BANK OF AMERICA	TRAINING/INMATE MEALS	POLICE PATROL	185.17
	BANK OF AMERICA		DETENTION & CORRECTION	356.55
	BANK OF AMERICA		POLICE TRAINING-FIREARMS	879.00
146678	BANK OF AMERICA	TRAVEL/TRAINING	POLICE INVESTIGATION	166.80
	BANK OF AMERICA		POLICE ADMINISTRATION	1,687.23
	BANK OF AMERICA		PRO ACT TEAM	2,948.40
	BANK OF AMERICA		POLICE TRAINING-FIREARMS	4,171.00
146679	BENNETT, GLADYS	UTILITY TAX REBATE	NON-DEPARTMENTAL	31.59
146680	BILLING DOCUMENT SPE	TRANSACTION FEES - JANUARY	UTILITY BILLING	2,490.22
	BILLING DOCUMENT SPE	BILL PRINTING SERVICE 1/20-1/29/21	UTILITY BILLING	4,395.01
146681	BOTESCH, NASH & HALL	CIVIC CENTER PROJECT	CAPITAL EXPENDITURES	25,891.40
146682	BOYKO, ROSTISLAV	UB REFUND	WATER/SEWER OPERATION	401.11
146683	CALLAGHAN, DAN	UB REFUND 16600 25TH AVE NE #16	GARBAGE	142.19
146684	CANTU, CAROL	UTILITY TAX REBATE	NON-DEPARTMENTAL	80.92
146685	CAPTAIN DIZZY 76	CAR WASHES	POLICE PATROL	169.00
146686	CHAN,JAMES & KJAER,K	UTILITY TAX REBATE	NON-DEPARTMENTAL	36.73
	CHAN,JAMES & KJAER,K		UTIL ADMIN	43.29
	CHAN,JAMES & KJAER,K		UTIL ADMIN	161.39
146687	CLOSE, BETTY LOU		NON-DEPARTMENTAL	35.54
	CLOSE, BETTY LOU		UTIL ADMIN	43.29
	CLOSE, BETTY LOU		UTIL ADMIN	161.39
146688	CREAMERY CO.	COMMUNITY EVENT	YOUTH SERVICES	497.36
146689	CROWLEY, MARGIL	UTILITY TAX REBATE	NON-DEPARTMENTAL	60.28
146690	CTS LANGUAGE LINK	INTERPRETER SERVICE - SPANISH	COURTS	2.28
146691	DAHLBERG, JUDY	UTILITY TAX REBATE	NON-DEPARTMENTAL	64.69
146692	DAUGHERTY, JOHN C	UB REFUND	WATER/SEWER OPERATION	19.80
146693	DEPERRO, ANTHONY	UTILITY TAX REBATE	UTIL ADMIN	43.29
	DEPERRO, ANTHONY		NON-DEPARTMENTAL	62.39
	DEPERRO, ANTHONY		UTIL ADMIN	205.27
146694	DICKS TOWING	TOWING	POLICE PATROL	77.47
	DICKS TOWING		POLICE PATROL	77.47
	DICKS TOWING		POLICE PATROL	77.47
	DICKS TOWING		POLICE PATROL	77.47
	DICKS TOWING		POLICE PATROL	77.47
	DICKS TOWING	TOWING 21-4695	POLICE PATROL	77.47
	DICKS TOWING	TOWING 21-5044	POLICE PATROL	77.47
	DICKS TOWING	TOWING BWE0323	POLICE PATROL	77.47
146695	DIGITAL DOLPHIN SUPP	TONER	PRO ACT TEAM	436.98
146696	EARTHWORK SOLUTIONS	UB REFUND 5201 138TH ST NE #1 98271	WATER/SEWER OPERATION	27.43
146697	ENTERPRISE, DEPT OF	GOVERNMENT SELF INSURANCE	MEDICAL CLAIMS	212.12
146698	ERICKSON, ILENE	UTILITY TAX REBATE	NON-DEPARTMENTAL	36.29
146699	EVANSON, ALEX & JACQ	UB REFUND	GARBAGE	335.36
146700	EVERETT POLYGRAPH	POLYGRAPH	POLICE ADMINISTRATION	200.00
146701	EVIDENT, INC.	EVIDENCE SUPPLIES	GENERAL FUND	-3.53
	EVIDENT, INC.		POLICE PATROL	41.53
146702	FLORES, RICARDO	UTILITY TAX REBATE	NON-DEPARTMENTAL	24.62
146703	GALLS, LLC	UNIFORM BURNETTE	OFFICE OPERATIONS	81.96
	GALLS, LLC		OFFICE OPERATIONS	86.85
	GALLS, LLC	TACTICAL UNIFORMS	SWAT TEAM	105.72
	GALLS, LLC	TACTICAL UNIFORM	SWAT TEAM	109.25
	GALLS, LLC	LAPEL MICS	POLICE PATROL	1,296.46
146704	GEOTEST SERVICES INC	PAYMENT APPLICATION #12	CAPITAL EXPENDITURES	17,173.76

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 2/24/2021 TO 2/24/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146705	GOVCONNECTION INC	FIREWALL & ANTENNA	SEWER LIFT STATION	882.79
	GOVCONNECTION INC	CELL PHONE OTTER BOXES	IS REPLACEMENT ACCOUNTS	903.14
	GOVCONNECTION INC	REPLACEMENT TABLET	IS REPLACEMENT ACCOUNTS	906.52
146706	GOVERNMENT PORTFOLIO	2018 BOND PROCEEDS INVESTMENT	GMA - STREET	95.70
	GOVERNMENT PORTFOLIO		CAPITAL EXPENDITURES	504.30
	GOVERNMENT PORTFOLIO		FINANCE-GENL	6,000.00
146707	GREEN, VIRGINIA	UTILITY TAX REBATE	NON-DEPARTMENTAL	52.00
146708	GROSSGLASS, RONALD		UTIL ADMIN	43.29
	GROSSGLASS, RONALD		NON-DEPARTMENTAL	68.08
	GROSSGLASS, RONALD		UTIL ADMIN	161.39
146709	HALL, FLYNN & JUDY	UB REFUND	WATER/SEWER OPERATION	144.66
146710	HAYNES, MERLE	UTILITY TAX REBATE	NON-DEPARTMENTAL	90.57
146711	HOLLAND, KAREN B		NON-DEPARTMENTAL	51.07
146712	HYLARIDES, LETTIE	INTERPRETER SERVICE - SPANISH	COURTS	100.00
146713	IAN MILLIKAN CST	UB REFUND 5010 GROVE ST 98270	WATER/SEWER OPERATION	333.17
146714	INTL ASSOC CHIEFS	MEMBERSHIP DUES LAMOUREUX	POLICE ADMINISTRATION	190.00
146715	JOHNSON, KALAN S	UB REFUND	WATER/SEWER OPERATION	33.65
146716	JULZ ANIMAL HOUZ	SUPPLIES	K9 PROGRAM	41.62
146717	KAYS, SHAUN & KELLY	UB REFUND	WATER/SEWER OPERATION	8.34
146718	KUPRIYANOVA, SVETLAN	INTERPRETER SERVICES - RUSSIAN	COURTS	100.00
	KUPRIYANOVA, SVETLAN		COURTS	100.00
146719	LAKE STEVENS SCHOOL	MITIGATION FEES	SCHOOL MITIGATION FEES	77,880.00
146720	LANDERS, LORI & STEV	UTILITY TAX REBATE	UTIL ADMIN	43.29
	LANDERS, LORI & STEV		NON-DEPARTMENTAL	99.16
	LANDERS, LORI & STEV		UTIL ADMIN	205.27
146721	LEADS ONLINE	LEADS ONLINE RENEWAL	POLICE INVESTIGATION	2,148.00
146722	LEGACY TAPPING, INC	HOT TAP	WATER DIST MAINS	5,891.27
146723	LENNAR NORTHWEST INC	UB REFUND 3521 80TH AVE NE 98270	GARBAGE	268.39
146724	LONGFIELD, AUTUMN	UTILITY TAX REBATE	NON-DEPARTMENTAL	93.32
146725	LOOMIS	ARMORED TRUCK SERVICE	COMMUNITY DEVELOPMENT-	67.79
	LOOMIS		UTIL ADMIN	67.79
	LOOMIS		UTILITY BILLING	135.58
	LOOMIS		POLICE ADMINISTRATION	271.16
	LOOMIS		MUNICIPAL COURTS	271.16
146726	MANUEL, FRANK & ADRI	UB REFUND	WATER/SEWER OPERATION	224.19
146727	MARTIN, CLIFFORD & L		WATER/SEWER OPERATION	452.85
146728	MARTIN, JORJA		WATER/SEWER OPERATION	24.10
146729	MARYSVILLE FIRE	EMERGENCY AID SERVICES	FIRE-EMS	121,342.09
146730	MARYSVILLE, CITY OF	1635 GROVE ST	PUBLIC SAFETY BLDG	2,723.18
146731	MAURER, LOUISE	UTILITY TAX REBATE	NON-DEPARTMENTAL	45.27
146732	MCCRUM LLC	UB REFUND 1085 CEDAR AVE 98270	WATER/SEWER OPERATION	15.91
146733	MCCRUM LLC	UB REFUND 1083 CEDAR AVE 98270	GARBAGE	531.70
146734	MCFADDEN, SYLVIA	UTILITY TAX REBATE	NON-DEPARTMENTAL	33.65
146735	MEDINA, GINA		NON-DEPARTMENTAL	24.73
	MEDINA, GINA		UTIL ADMIN	43.29
	MEDINA, GINA		UTIL ADMIN	161.39
146736	MONNOT, GREG		UTIL ADMIN	43.29
	MONNOT, GREG		NON-DEPARTMENTAL	56.12
146737	MURRIL, JEAN		NON-DEPARTMENTAL	73.75
146738	NELSON, ELTON		NON-DEPARTMENTAL	51.62
146739	NOBLE, BRAD		NON-DEPARTMENTAL	64.98
146740	NUNNALLY, LARRY & SA		UTIL ADMIN	43.29
	NUNNALLY, LARRY & SA		NON-DEPARTMENTAL	43.73
	NUNNALLY, LARRY & SA		UTIL ADMIN	161.39
146741	OCCAM VIDEO SOLUTION	TRAINING	POLICE INVESTIGATION	1,726.94
146742	OFFICE DEPOT	SUPPLIES	POLICE PATROL	6.31
	OFFICE DEPOT		POLICE PATROL	20.10
	OFFICE DEPOT		POLICE INVESTIGATION	32.78

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 2/24/2021 TO 2/24/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146742	OFFICE DEPOT	SUPPLIES	POLICE PATROL	50.42
	OFFICE DEPOT		POLICE PATROL	60.08
	OFFICE DEPOT		POLICE PATROL	104.90
	OFFICE DEPOT		POLICE PATROL	154.07
	OFFICE DEPOT		POLICE PATROL	158.34
	OFFICE DEPOT		FINANCE-GENL	170.57
	OFFICE DEPOT		OFFICE OPERATIONS	180.32
	OFFICE DEPOT		POLICE PATROL	216.11
	OFFICE DEPOT		COMMUNITY DEVELOPMENT-	229.47
	OFFICE DEPOT		POLICE INVESTIGATION	229.73
	OFFICE DEPOT		POLICE ADMINISTRATION	254.02
	OFFICE DEPOT		POLICE PATROL	264.00
	OFFICE DEPOT	EVIDENCE SUPPLIES	POLICE PATROL	287.86
	OFFICE DEPOT	SUPPLIES	POLICE PATROL	381.53
	OFFICE DEPOT	FILE CABINET	OFFICE OPERATIONS	465.79
	OFFICE DEPOT	SUPPLIES	POLICE INVESTIGATION	713.17
146743	OLSEN, CRYSTAL	UTILITY TAX REBATE	NON-DEPARTMENTAL	55.66
146744	OTTO-BETZ, MARILYN		NON-DEPARTMENTAL	136.38
146745	PALAMERICAN SECURITY	SECURITY SERVICE	PROBATION	1,013.25
	PALAMERICAN SECURITY		MUNICIPAL COURTS	3,039.75
146746	PAPENTHIEN, DEBRA	UTILITY TAX REBATE	NON-DEPARTMENTAL	7.57
146747	PEACE OF MIND	02/08 COUNCIL MEETING MINUTES	CITY CLERK	88.40
146748	PEDERSON, COLLEEN	UTILITY TAX REBATE	NON-DEPARTMENTAL	46.94
146749	PETET, RYAN & DESI	UB REFUND	WATER/SEWER OPERATION	296.11
146750	PETTY CASH- PW	REGISTER NEW VEHICLES DOL	GMA - STREET	9.20
	PETTY CASH- PW		EQUIPMENT RENTAL	123.50
146751	PREMIER WIRELESS	SIERRA WIRELESS MODEMS	GENERAL FUND	-437.13
	PREMIER WIRELESS		POLICE PATROL	1,289.93
	PREMIER WIRELESS		POLICE PATROL	3,847.57
146752	PUD	ACCT #202461026	MAINT OF GENL PLANT	16.44
	PUD	ACCT #201346665	SEWER LIFT STATION	17.01
	PUD	ACCT #204262620	TRAFFIC CONTROL DEVICES	19.28
	PUD	ACCT #204259469	TRAFFIC CONTROL DEVICES	19.84
	PUD	ACCT #204260343	TRAFFIC CONTROL DEVICES	19.84
	PUD	ACCT #200973956	SEWER LIFT STATION	21.51
	PUD	ACCT #200501617	TRANSPORTATION MANAGEM	26.18
	PUD	ACCT #200448801	TRANSPORTATION MANAGEM	46.67
	PUD	ACCT #203500020	STREET LIGHTING	49.91
	PUD	ACCT #202294245	SEWER LIFT STATION	50.86
	PUD	ACCT #221115934	MAINT OF GENL PLANT	83.40
	PUD	ACCT #200061463	PARK & RECREATION FAC	83.99
	PUD	ACCT #220681340	STORM DRAINAGE	86.16
	PUD	ACCT #222664310	TRANSPORTATION MANAGEM	89.32
	PUD	ACCT #222664740	TRANSPORTATION MANAGEM	92.56
	PUD	ACCT #201909637	SEWER LIFT STATION	111.23
	PUD	ACCT #222663973	TRANSPORTATION MANAGEM	141.72
	PUD	ACCT #203291216	GENERAL SERVICES - OVERH	160.02
	PUD	ACCT #201587284	WASTE WATER TREATMENT F	417.91
	PUD	ACCT #201675634	WASTE WATER TREATMENT F	417.91
	PUD	ACCT #202177333	MAINT OF GENL PLANT	914.91
	PUD	ACCT #201617479	CITY HALL	1,143.10
	PUD	ACCT #200021871	COURT FACILITIES	1,272.19
	PUD	ACCT #201639689	MAINT OF GENL PLANT	1,572.35
146753	PUGET SOUND ENERGY	ACCT #200024981520	COMMUNITY CENTER	51.29
146754	REVENUE, DEPT OF	TAXES JANUARY 21	ER&R	0.01
	REVENUE, DEPT OF		CITY CLERK	0.63
	REVENUE, DEPT OF		GENERAL FUND	15.14
	REVENUE, DEPT OF		COMMUNITY DEVELOPMENT-	20.22

**CITY OF MARYSVILLE
 INVOICE LIST**

FOR INVOICES FROM 2/24/2021 TO 2/24/2021

<u>CHK #</u>	<u>VENDOR</u>	<u>ITEM DESCRIPTION</u>	<u>ACCOUNT DESCRIPTION</u>	<u>ITEM AMOUNT</u>
146754	REVENUE, DEPT OF	TAXES JANUARY 21	POLICE ADMINISTRATION	44.41
	REVENUE, DEPT OF		GOLF ADMINISTRATION	352.44
	REVENUE, DEPT OF		GOLF COURSE	6,880.30
	REVENUE, DEPT OF		STORM DRAINAGE	8,251.33
	REVENUE, DEPT OF		SOLID WASTE OPERATIONS	24,218.93
	REVENUE, DEPT OF		UTIL ADMIN	69,250.36
146755	RIDEN, JUDY	UTILITY TAX REBATE	NON-DEPARTMENTAL	62.51
146756	ROBINETT HOLDINGS, L	UB REFUND 6609 36TH ST NE 98270 TNT BAR	WATER/SEWER OPERATION	13.56
146757	RUSDEN, JOHN	PROTEM SERVICE 1-28-21	MUNICIPAL COURTS	185.00
146758	SANDHOFER, PAMELA	UTILITY TAX REBATE	NON-DEPARTMENTAL	66.45
146759	SCHOOS, RONALD & RIT		UTIL ADMIN	43.29
	SCHOOS, RONALD & RIT		NON-DEPARTMENTAL	68.81
	SCHOOS, RONALD & RIT		UTIL ADMIN	205.27
146760	SCHROEDER, BARBARA		NON-DEPARTMENTAL	26.12
146761	SCORE	SCORE HOUSING JANUARY	DETENTION & CORRECTION	15,704.00
146762	SHEEHAN, FRANCIS M	UTILITY TAX REBATE	NON-DEPARTMENTAL	62.14
146763	SHI INTERNATIONAL	SQL SERVER UPGRADE	IS REPLACEMENT ACCOUNTS	739.12
146764	SHRED-IT US	SHREDDING	POLICE PATROL	9.12
	SHRED-IT US	RECORD DESTRUCTION	PROBATION	16.79
	SHRED-IT US		MUNICIPAL COURTS	50.38
146765	SNO CO AUDITOR	COST OF VOTER REGISTRATION	FINANCIAL & RECORDS SERV	72,536.85
146766	SNO CO TREASURER	CRIME VICTIM/WITNESS FUND	CRIME VICTIM	490.66
146767	SNOHOMISH CO 911	DISPTACH	COMMUNICATION CENTER	88,026.43
146768	SOUND PUBLISHING	LEGAL ADS	COMMUNITY DEVELOPMENT-	259.00
146769	SOUND PUBLISHING	EMPLOYMENT ADVERTISEMENT	PARK & RECREATION FAC	149.50
	SOUND PUBLISHING		CUSTODIAL SERVICES	149.50
	SOUND PUBLISHING		CUSTODIAL SERVICES	299.00
	SOUND PUBLISHING		UTIL ADMIN	299.00
146770	STARK, MAYDA	UTILITY TAX REBATE	NON-DEPARTMENTAL	69.28
146771	STRAND, DELORA		NON-DEPARTMENTAL	59.42
146772	UNITED PARCEL SERVIC	SHIPPING/LATE FEES	POLICE PATROL	41.52
146773	VASQUEZ, ROBERTO & Z	UB REFUND	WATER/SEWER OPERATION	112.58
146774	VERBON, RUSSELL	UTILITY TAX REBATE	NON-DEPARTMENTAL	61.56
146775	VERIZON	WIRELESS SERVICES	CRIME PREVENTION	23.80
	VERIZON		PURCHASING/CENTRAL STOF	23.80
	VERIZON		PROPERTY TASK FORCE	41.76
	VERIZON		FACILITY MAINTENANCE	51.90
	VERIZON		PERSONNEL ADMINISTRATIO	53.30
	VERIZON		SEWER LIFT STATION	80.02
	VERIZON		EQUIPMENT RENTAL	99.50
	VERIZON		FINANCE-GENL	113.80
	VERIZON		YOUTH SERVICES	125.28
	VERIZON		OFFICE OPERATIONS	125.28
	VERIZON		UTILITY BILLING	151.40
	VERIZON		COMMUNITY SERVICES UNIT	177.18
	VERIZON		CUSTODIAL SERVICES	192.15
	VERIZON		PARK & RECREATION FAC	194.70
	VERIZON		TRANSPORTATION MANAGEM	200.26
	VERIZON		RECREATION SERVICES	215.21
	VERIZON		LEGAL-GENL	257.61
	VERIZON		WATER QUAL TREATMENT	259.52
	VERIZON		LEGAL - PROSECUTION	289.50
	VERIZON		SOLID WASTE CUSTOMER EX	306.11
	VERIZON		DETENTION & CORRECTION	325.06
	VERIZON		EXECUTIVE ADMIN	331.40
	VERIZON		POLICE INVESTIGATION	334.08
	VERIZON		MUNICIPAL COURTS	359.52
	VERIZON		WATER SUPPLY MAINS	360.30

**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>
146775	VERIZON	WIRELESS SERVICES	COMMUNITY DEVELOPMENT-	430.44
	VERIZON		WASTE WATER TREATMENT F	543.15
	VERIZON		COMPUTER SERVICES	569.16
	VERIZON		POLICE ADMINISTRATION	738.72
	VERIZON		STORM DRAINAGE	739.08
	VERIZON		GENERAL SERVICES - OVERH	786.56
	VERIZON		ENGR-GENL	1,448.90
	VERIZON		UTIL ADMIN	1,918.29
	VERIZON		POLICE PATROL	2,261.68
146776	WAMPLER, NINA	UTILITY TAX REBATE	NON-DEPARTMENTAL	33.11
146777	WAVEDIVISION HOLDING	INTERNET SERVICES	WATER QUAL TREATMENT	111.20
	WAVEDIVISION HOLDING		CENTRAL SERVICES	513.24
	WAVEDIVISION HOLDING		COMPUTER SERVICES	1,438.20
146778	WEBB, ELLEN	UTILITY TAX REBATE	NON-DEPARTMENTAL	37.25
	WEBB, ELLEN		UTIL ADMIN	43.29
	WEBB, ELLEN		UTIL ADMIN	161.39
146779	WELLS-SEHORN, CANDY		NON-DEPARTMENTAL	11.07
146780	WEST PAYMENT CENTER	INVESTIGATIVE TOOL	POLICE INVESTIGATION	360.08
146781	WILLIAMS, DENISE	UTILITY TAX REBATE	NON-DEPARTMENTAL	65.12
146782	ZIPLY FIBER	ACCT #3606589493	RECREATION SERVICES	34.75
	ZIPLY FIBER		POLICE INVESTIGATION	34.76
	ZIPLY FIBER	ACCT #3606515033	EXECUTIVE ADMIN	36.42
	ZIPLY FIBER	ACCT #3606577495	STREET LIGHTING	53.33
	ZIPLY FIBER	ACCT #3606583635	COMMUNITY DEVELOPMENT-	61.38
	ZIPLY FIBER		UTIL ADMIN	61.39
	ZIPLY FIBER	ACCT #3606588575	STORM DRAINAGE	67.48
	ZIPLY FIBER	ACCT #4253357893	SUNNYSIDE FILTRATION PLAI	235.66
146783	ZWIERS, ANNA	UTILITY TAX REBATE	NON-DEPARTMENTAL	73.33

WARRANT TOTAL: 668,855.00

REASON FOR VOIDS:
 INITIATOR ERROR
 CHECK LOST/DAMAGED

Index #5

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

AGENDA ITEM:	
Supplemental Agreement No. 5 with HDR, Inc. on the State Avenue (100 th Street NE to 116 th Street NE) Corridor Improvement Project	
PREPARED BY:	DIRECTOR APPROVAL:
Patrick Gruenhagen, Project Manager	<i>PK for KR</i>
DEPARTMENT:	
Engineering	
ATTACHMENTS:	
Supplemental Agreement No. 5	
BUDGET CODE:	AMOUNT:
30500030.563000, R1601	\$298,543.93
SUMMARY:	
<p>The City executed a Professional Services Agreement (PSA) with HDR, Inc. on April 11, 2017, establishing the framework for HDR to provide professional design and property negotiation services for the State Avenue Corridor Improvement Project. Upon completion of design, permitting, and right of way acquisition in late 2019, construction for Phase 1 of the project (extending from 100th Street NE to 104th Street NE) began in early 2020, and is now well under way.</p> <p>On January 11, 2021, Council approved the agreement for \$4M in construction funding with the Transportation Improvement Board, which is now earmarked for Phase 2 of this project — extending along State Avenue from 104th Street NE to 116th Street NE. As a result, the City is now moving forward with a goal to have Phase 2 under construction just as construction of Phase 1 draws to a close, in early 2022.</p> <p>Toward that end, Supplemental Agreement No. 5 amends HDR’s scope of work to provide for advancement of the Phase 2 design from 90% to a 100% “Ad-ready” state of completion. Further, this Supplement calls for HDR to spearhead efforts to pursue environmental permits for Phase 2, and to serve as the City’s main point of contact during planned negotiations for purchase of right-of-way that will be required to build the project. The total cost for this additional work, as negotiated, will be \$298,543.93, yielding a new contract total of \$3,124,098.74. In addition to scope revisions, Supplemental Agreement No. 5 provides for a time extension of the contract end date through June 30, 2022.</p>	

RECOMMENDED ACTION:

Staff recommends that Council authorize the Mayor to sign and execute Supplemental Agreement No. 5 with HDR, Inc., for Phase 2 of the State Avenue (100th Street NE to 116th Street NE) Corridor Improvement Project in the amount of \$298,543.93 and extending the term to June 30, 2022.

RECOMMENDED MOTION:

I move to authorize the Mayor to sign and execute the supplemental agreement.

**SUPPLEMENTAL AGREEMENT NO. 5 TO
PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF MARYSVILLE
AND HDR ENGINEERING, INC.**

THIS SUPPLEMENTAL AGREEMENT NO. 5 (“Supplemental Agreement”) is made and entered into as of the date of the last signature below, by and between the City of Marysville, a Washington State municipal corporation (“City”) and HDR Engineering, Inc., a Nebraska corporation (“Consultant”).

WHEREAS, the parties hereto have previously entered into an agreement for the State Ave. Corridor Improvement Project (100th St NE to 116th St NE), consisting of widening the roadway to 5-lanes (the “Original Agreement”), said Original Agreement being dated April 11, 2017 and four supplemental agreements: Supplemental Agreement No. 1, dated February 12, 2018, and Supplemental Agreement No. 2, dated September 11, 2018, Supplemental Agreement No. 3, dated June 25, 2019, and Supplemental Agreement No. 4, dated February 4, 2020; and

WHEREAS, both parties desire to supplement the Original Agreement by expanding the scope of services and extending the contract term to June 30, 2022;

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

1. Exhibit A, as referenced and incorporated in Section 1 of the Original Agreement, “SCOPE OF SERVICES,” shall be amended by Exhibit A-5, attached hereto and by this reference made part of this Supplemental Agreement No. 5, and a part of the Original Agreement.
2. Section 2 of the Original Agreement, “TERM,” is amended to provide all work shall be completed by June 30, 2022.
3. Section 3 of the Original Agreement, “COMPENSATION” as amended by Supplemental Agreement No. 1, Supplemental Agreement No. 2, Supplemental Agreement No. 3, and Supplemental Agreement No. 4, is amended to include the additional Consultant fee of \$298,543.93 and shall read as follows: “In no event shall the compensation paid to Consultant under this Agreement exceed \$3,124,098.74 within the term of the Agreement, including extensions, without the written agreement of the Consultant and the City.”

Original Agreement	\$1,665,545.09
Supplemental Agreement No. 1	\$470,288.53
Supplemental Agreement No. 2	\$271,216.98
Supplemental Agreement No. 3	\$60,000.00
Supplemental Agreement No. 4	\$358,504.21
Supplemental Agreement No. 5	<u>\$298,543.93</u>
Grand Total	\$3,124,098.74

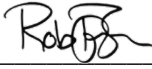
4. Each and every provision of the Original Agreement for Professional Services dated April 11, 2017, shall remain in full force and effect, except as modified herein.

DATED this _____ day of March, 2021.

CITY OF MARYSVILLE

HDR ENGINEERING, INC.

By _____
Jon Nehring, Mayor

By  _____
Its: Sr Vice President

ATTEST/AUTHENTICATED:

Tina Brock, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

State Avenue Corridor Widening Project
(100th Street NE to 116th Street NE)
SUPPLEMENTAL AGREEMENT NO. 5

Supplemental Scope of Services for Completion of
Segment 2 Design and Right-of-Way

February 2021
City of Marysville

Prepared by:



2707 Colby Avenue, Suite 715
Everett, WA 98201

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INTRODUCTION

During the term of this PROFESSIONAL SERVICES AGREEMENT (AGREEMENT), HDR Engineering, Inc., (CONSULTANT) shall perform professional services for the City of Marysville (CITY) in connection with the following project: **State Avenue Corridor Improvement Project (100th Street NE to 116th Street NE) (PROJECT)**.

This Supplemental Agreement No. 5 authorizes additional work necessary for providing engineering design and right-of-way (ROW) acquisition services for the Segment 2 Segment of the PROJECT, **State Avenue Improvement Project (104th Street NE to 116th Street NE)**, described generally as:

- Engineering Design to advance Plans, Specifications, and Engineer's Opinion of Probable Construction Cost from the 90% design level to the 100% and Ad-Ready design level;
- Attending progress meetings with CITY Staff;
- Coordinating with CITY and Franchise Utilities for design and Construction Provisions related to the Joint Utility Trench and other relocation activities;
- Real Estate Acquisition Services including offer preparation, negotiations, and closing of the acquisition;
- Property Valuation services including appraisal updates; and
- Bidding period support services.

Background Information

The Project Design for Segment 1 was completed on October 16, 2019, with the delivery of construction documents to the CITY for use in advertising and receiving construction bids for the PROJECT. Construction of Segment 1 commenced in early 2020 and is anticipated to be complete by December 2021. In May 2019, the CITY decided to delay the completion of the Segment 2 design and ROW acquisition due to funding constraints and focus on the construction of Segment 1. With Segment 1 construction well underway and receipt of additional grant funding for Segment 2 through the Washington State Transportation Improvement Board (TIB), the CITY has requested that the CONSULTANT provide additional design engineering and ROW acquisition services to complete the final design, prepare contract documents, assist with acquisition of remaining ROW and easements, and respond to contractor questions during the bidding phase.

Scope of Work

This supplemental scope of work includes additional final design engineering services, preparation of environmental and construction permit applications, and ROW acquisition services necessary to facilitate the completion of Segment 2 and the overall PROJECT.

Major Milestone Schedule Revisions

The following are major schedule milestones for the project:

- Preliminary DesignAugust 2017–Completed
- 30% DesignOctober 2017–Completed
- JARPA/SEPA Submittal.....October 2017–Completed
- Revision to JARPAJune 2018–Completed
- 60% DesignApril 2018–Completed

SEGMENT 1 – 100th Street NE to 104th Place NE

- 90% Design – Segment 1August 2018–Completed
- ROW Acquisition Complete – Segment 1November 2019–Completed
- Environmental Permits Secured – Segment 1July 2019–Completed
- Ad-Ready – Segment 1October 2019–Completed
- Bidding Phase – Segment 1October/November 2019–Completed
- Construction Phase – Segment 1January 2020 – November 2021–In Progress

SEGMENT 2 – 104th Place NE to 116th Street NE

- 90% Design – Segment 2August 2018–Completed
- ROW Acquisition Complete – Segment 2November 2021
- Environmental Permits Secured – Segment 2November 2021
- Ad-Ready – Segment 2November 2021
- Bidding Phase – Segment 2December 2021–January 2022

Project Assumptions

General Assumptions:

1. The General Assumptions remain unchanged as outlined in the Original Agreement and previous Supplemental Agreement Nos.1 through 4.
2. The CITY’s Project Manager will be Patrick Gruenhagen, PE.
3. The CITY shall provide or make available any applicable updates to its codes and standards, relevant as-constructed plans from other projects, and new development plans and records since the Segment 2 PROJECT was put on hold in 2019.
4. All meetings outlined in this Supplemental Agreement No. 5 will be scheduled and conducted virtually via WebEx or other media determined by the CONSULTANT, due to current COVID pandemic restrictions, guidelines, and practices.
5. Additional assumptions are listed in the individual subtask descriptions.

Design Standards and References:

1. The PROJECT Design Standards and References remain unchanged from the original scope of services, and modifications previously noted in Supplemental Agreement Nos. 1 through 4; except any recent (since 2019) updates of the applicable codes, design manuals, and standard specifications.
2. **State Avenue Improvement Project (100th Street NE to 104th Street NE)** construction documents including the Plans, Project Manual, Bidding and Contract documents, and Permits.

Project Tasks

The CONSULTANT shall manage the work as described within the following major Work Elements.

TASK 1. PROJECT MANAGEMENT & ADMINISTRATION

This task will be continuous throughout the project duration, which is extended to June 30, 2022. The additional work includes the work to update the scope, schedule, budget, and SUBCONSULTANT agreements; additional project coordination with the CONSULTANT staff and SUBCONSULTANTS; and management of the additional work efforts defined in this Supplemental Agreement No. 5. Components of this work, including planning the PROJECT, executing the PROJECT, managing change, and closing the PROJECT, include:

1.1. Project FTP Site, Project Set up, Management Plan, HASP

The CONSULTANT shall revise and update the PROJECT scope and budget, Project Management Plan (PMP), Quality Management Plan (QMP), project accounting and project management records to include the additional work of this Supplemental Agreement No. 5.

1.2. Project Team Coordination Meetings

The CONSULTANT shall hold monthly Project Team Coordination Meetings with key CONSULTANT team members to discuss the PROJECT status, elements of the work plan, status of action items, and to discuss progress of the design and resolve any outstanding PROJECT issues that might affect the delivery of the PROJECT. The SUBCONSULTANT project managers shall also attend these meetings as requested.

Assumptions:

- Twelve (12) monthly project team coordination meetings
- The CONSULTANT shall be responsible for agendas for the PROJECT team meetings.

Deliverable(s):

- There are no formal deliverables for this task.

1.3. Project Schedule

The CONSULTANT shall re-baseline the PROJECT and develop an updated Project Schedule to include Segment 2 final design, ROW acquisition, permitting and bidding. The schedule shall be maintained and updated as necessary during the time of this Supplemental Agreement No. 5. This scope of services anticipates a maximum of two (2) progress updates.

Deliverable(s):

- Re-baseline Project Schedule
- Progress Schedule updates (2 max.)

1.4. Progress Reporting and Invoicing

The CONSULTANT shall provide additional information for Segment 2 efforts, to 14 Monthly Progress Reports already authorized by Supplemental Agreement No. 4.

Deliverable(s):

- Segment 2 information in previously authorized Monthly Progress Reports (14 additional)
- Segment 2 information in previously authorized Monthly Invoices (14 additional)

1.5. Subconsultant Coordination

The CONSULTANT shall manage and coordinate with the SUBCONSULTANTS required for the successful completion of the work, and as included in the scope and budget for this Supplemental Agreement No. 5.

1.6. Project Restart Kick-off Meeting

The CONSULTANT will prepare for and conduct a Project Restart Kick-off Meeting to provide the necessary basis for a successful completion of the Segment 2 project that satisfies the needs of the CITY, CONSULTANT, and community-at-large. The Project Kick-off Meeting agenda will include discussion of overall project needs, previous design decisions, 90% project characteristics (from 2019 efforts), updated information regarding CITY and community goals, standards, new developments, areas of responsibility, Supplemental Agreement No. 5 project scope and budget, and commitments to decision-making and schedule.

CITY Responsibilities:

- Attend and participate in the Project Restart Kick-off Meeting.

Assumption(s):

- The Project Restart Kick-off Meeting will be conducted virtually via WebEx or other media as determined by the CONSULTANT.
- The Project Restart Kick-off Meeting will be attended by the CONSULTANT Project Manager, Design Manager, up to ten (10) CONSULTANT Discipline Leads, and up to four (4) SUBCONSULTANTS; CITY Engineer, CITY Project Manager, Permitting Lead; and other CITY staff as may be determined by the CITY Project Manager.

Deliverable(s):

- Project Restart Kick-off Meeting agenda and Meeting summary notes.

1.7. Project Team Management

The CONSULTANT Project Manager shall oversee and manage the work during the extended term as authorized by this Supplemental Agreement No. 5.

1.8. Project Close-out

The CONSULTANT shall assemble Segment 2 Design project documentation and records and prepare electronic files to be retained by the CONSULTANT and transmitted to the CITY in accordance with the Original Agreement and this Supplemental Agreement No. 5.

TASK 2. CLIENT COMMUNICATIONS AND COORDINATION

This Supplemental Agreement No. 5 includes Monthly 30-Minute Client Update video/conference calls. These calls will allow both Project Managers a scheduled, formal contact point to maintain open communications; discuss project progress, issues, and staffing needs; and coordinate overall contractor progress and performance issues. Summary meeting notes will be prepared and distributed as a result of these calls.

Assumption(s):

1. Monthly Client Updates will be by video or conference call, and last 30 minutes.
2. A maximum of two (2) CONSULTANT staff will participate in the video / conference calls.

Deliverable(s):

1. Monthly client Update Call Summary Notes (electronic copy in PDF Adobe format)

TASK 3. QUALITY ASSURANCE/QUALITY CONTROL

The CONSULTANT will conduct a formal submittal quality assurance / quality control (QAQC) process for the Segment 2 100% and Ad-Ready submittals. The QAQC efforts will be accomplished in accordance with the PROJECT Quality Management Plan.

Assumption(s):

1. CONSULTANT will conduct an internal QAQC process on all submittal documents prior to transmittal to the CITY.
2. A Quality Assurance Checklist will be completed for each submittal package and documented in HDR internal project files.
3. 100% plans, specifications and Engineer's Opinion of Cost will not be stamped and will be marked "Not for Construction".

Deliverable(s):

1. There are no formal deliverables for this task.

TASK 4. DATA COLLECTION/REVIEW OF EXISTING INFORMATION

The CONSULTANT shall collect and review all updated information and available documents related to the PROJECT, as provided by the CITY. Information may include updates to CITY front end specification/contract documents; new or modified CITY Design Standards and Details; changes and updates to codes and regulations for water, sewer, and stormwater utilities; and changes in adjacent property ownerships, improvements and development.

TASK 5. SURVEY AND MAPPING

This task involves additional field surveying to augment the original survey completed for the project. This work will be limited to 40 hours of field time to pick up elements deemed necessary by the Project Team. It is anticipated that this work will include utility locates and pickup of pothole locations; additional survey of frontage improvements; and/or survey of elements that may have changed in the corridor. This work will also include revisions to ROW legal descriptions and exhibits for up to seven (7) parcels.

5.1. Research and Existing Data Compilation

CONSULTANT will collect any recent and updated existing data pertinent to the project that is available from the CITY, the County, other agencies, franchise utilities, and other sources. The data shall include ROW information, topographic surveys, existing utility locations, and previous reports and documents pertaining to the project.

5.2. Survey and Construction Geodetic and Cadastral Control

CONSULTANT will recover existing survey control monumentation, established during previous phases of the PROJECT. It is assumed that the previous control is remaining and can easily be recovered. Re-establishing survey control that has been removed, destroyed or dislodged is not included in this scope, and will be considered extra work.

5.3. Field Surveying and Base Mapping

A Washington State licensed professional land surveyor will update the field survey and revise and augment, as necessary, the existing conditions basemap completed during earlier phases of the PROJECT. Base mapping shall include topographic features and elevations within the project limits to a level of detail necessary for a proper engineering design. This scope limits the amount of field effort for restoring survey control and collecting additional survey information to 32 crew hours.

5.4. Right-of-Way and Parcel Resolution, Easements, Exhibits, and Legal Descriptions

CONSULTANT will review and resolve any existing ROW and adjacent parcel boundaries within the project area, that may have changed since completion of the 90% Design.

It is estimated that seven (7) updated Title Reports will be needed to confirm the CITY's ROW boundaries as well as determine potential ROW acquisition areas, easements and permits. This task also includes the development and delivery of up to seven Exhibits and Legal Descriptions in support of project ROW acquisition or new easement requirements. This effort is limited to 36 labor hours.

5.5. Office Processing and Deliverable

This task includes the office processing of the surveyed data sets and the extraction of the data required for deliverable.

This task also includes the processing of the data collected for use in determining the ROW and the creation of the topographic mapping deliverable. This effort is limited to 40 labor hours of office survey time.

5.6. Supplemental Surveys

It is assumed that during the final design phase, some level of supplemental survey not otherwise identified in this scope of services, may be necessary, for purposes such as private property match/conforms, utility features, structure elevations, or features requiring more definition for design purposes. This effort is limited to 16 field-crew hours.

CONSULTANT will process the supplemental field survey data and update the existing basemap to include the supplemental data.

Assumptions:

- The CITY will obtain title reports for the seven parcels that will be required.
- Up to seven parcels will require Exhibits and Legal Descriptions – up to two versions each.
- Right-of-Entry (ROE) to seven adjacent properties will be required and obtained by the CITY.
- The CONSULTANT will develop any required Traffic Control Plans.
- .
- Underground utilities will be painted or located by One-Call, as possible.
- Potholing will be accomplished by the CITY or franchise utility and is not included in this scope of services.
- Tree Tags are not a part of the scope of services.
- Does not include access or entry onto any Railroad properties.
- Supplemental field survey level of effort is limited to a maximum of 24 hours of crew time.

Deliverable(s):

- Updated Topographic Survey and ROW Base Map (electronic copy), 1"=20' basemap, 2-foot contour intervals.
- Supplemental survey and corresponding Base Map updates.
- Updated AutoCAD Surfaces (DTM Files) (electronic copy).
- Copy of field survey books (hard copy).
- Revised Final ROW Legal Descriptions and Exhibits in hard copy and electronic format.
- Revised Final Right-of-Way Plans

TASK 6. GEOTECHNICAL ENGINEERING

CONSULTANT will provide geotechnical engineering services needed to support final development of contract documents for the construction of utilities, stormwater ponds, signal pole foundations, and other road improvements associated with the project. CONSULTANT services include:

6.3. Geotechnical Design Services:

CONSULTANT will review and update geotechnical recommendations, previously developed during an earlier phase of the PROJECT, for the design and construction of the roadway improvements. The maximum level of effort for Geotechnical Engineering is 24 labor hours. Anticipated geotechnical design services may include the following:

Signal Pole and Luminaire Design Recommendations: CONSULTANT will review and confirm the lateral bearing pressures of the soil at the boring locations and provide geotechnical recommendations for signal pole and luminaire foundations based on WSDOT standard plans and procedures.

Stormwater Infiltration Recommendations: CONSULTANT will review and confirm the hydrogeologic recommendations for short- and long-term infiltration rates provided during an earlier phase of the PROJECT. The infiltration rates will be based on correlations with soil gradation.

Quality Assurance/Quality Control (QA/QC): CONSULTANT will have the design calculations, recommendations, and reports reviewed in accordance with its QA/QC plan.

Geotechnical Engineering Report Update: CONSULTANT will review the previously prepared Geotechnical Engineering Report and prepare a Geotechnical Engineering Report Update in the form of a technical memorandum. The memorandum shall confirm that previous conditions and recommendations are still valid and modify any recommendations due to a change in conditions or code requirements.

Plan and Specification Review: CONSULTANT will conduct a review of the project plans at the 100% milestone submittal to ensure that the geotechnical aspects of the project have been incorporated into the project documents.

Formal Conformance Letter: A letter will be produced after review of the 100% documents for conformance with the geotechnical design and construction recommendations for the project.

Geotechnical Engineering Response to Bidders' Questions: CONSULTANT will provide geotechnical engineering input to responses from potential bidders.

Assumption(s):

- The maximum level of effort for Geotechnical Engineering is 24 labor hours.
- Design for the geotechnical engineering analyses will be based on 2015 WSDOT *Geotechnical Design Manual* and 2014 AASHTO LRFD design criteria. Design of the stormwater water infiltration rates will

be based on the Department of Ecology *2012 Stormwater Management Manual for Western Washington*.

- Pilot infiltration tests (PITs) and groundwater mounding analyses are not included in this AGREEMENT.
- The site soils will support standard WSDOT plan signal pole and luminaire foundation design. Non-standard signal pole or luminaire foundation design will not be required.

Deliverable(s):

- Geotechnical Engineering Report Update Technical Memorandum (electronic copy as Adobe PDF)
- Plans and Specification markups (comments and edits to Adobe PDF or Microsoft Word document)
- Review Conformance Letter at 100% Project Milestone (electronic copy as Adobe PDF)

TASK 7. WATERMAIN & SANITARY SEWER DESIGN

The objective of this task is to prepare the final design for the replacement of the existing asbestos cement pipe water main with a new ductile iron pipe water main the length of the project, and install, modify, or extend water and sanitary sewer services to the new ROW, as may be required.

7.1. 100% Submittal

The CONSULTANT will use the previously prepared 90% design plans and progress to the 100% design and plan level. The CONSULTANT will take into consideration the 90% design review comments from the CITY, and other updated information provided by the CITY at the start of this effort while advancing to the 100% level.

7.1.1. 100% Plans

The CONSULTANT will further develop the 90% plans to a 100% plan level including the sheets listed in the table, shown in Task 13.

7.1.2. 100% Specifications

The CONSULTANT will update the specifications with any new or additional special provisions from the advancement of design and incorporation of CITY comments. The CONSULTANT shall run the “run-list” prior to submittal.

7.1.3. 100% Engineer’s Opinion of Cost

CONSULTANT’s Engineer’s Estimate shall update the 90% opinion of cost for the watermain replacement and document the estimate with backup quantity calculations.

Deliverable(s):

- 100% Watermain and Sanitary Sewer Pipe Replacement Plans (incorporated into the overall 100% plans submittal)

7.2. Ad-Ready Submittal

CONSULTANT will use the 100% design plans and progress to the Ad-Ready design and plan level. The CONSULTANT will take into consideration the 100% design review comments from the CITY while advancing to the Ad-Ready level.

7.2.1. Ad-Ready Plans

The CONSULTANT will further develop the 100% plans to an Ad-Ready plan level without the addition of any new sheets.

7.2.2. Ad-Ready Specifications

The CITY will supply the CONSULTANT with the current version of the CITY’s Special Provisions. The CITY’s boilerplate specifications are supplied in a Microsoft Word format. CONSULTANT will be required to create a “run-list” and edit the boilerplate version by supplementing project specific information. Since the CITY

updates the boilerplate specifications, the CONSULTANT shall keep a current project "run-list" and rerun the batch program prior to each plan submittal.

7.2.3. Ad-Ready Engineer's Opinion of Cost

CONSULTANT's Engineer's Estimate shall update the 100% the opinion of cost and document the estimate with backup quantity calculations. The estimate shall be prepared using standard unit costs and lump sum prices. The Ad-Ready opinion of probably cost will not include contingencies as all elements of work are defined. The "Bid Proposal" within the boilerplate specifications shall be prepared from this information by the CONSULTANT.

Deliverable(s):

- Ad-Ready Watermain and Sanitary Sewer Pipe Replacement Plans (incorporated into the overall final plans submittal)

TASK 12. ENVIRONMENTAL DOCUMENTATION & PERMITTING

The purpose of this task is to engage the regulatory agencies, update documentation, and prepare the SEPA Checklist, City Permits and NPDES Stormwater Permit application for the Segment 2 PROJECT.

12.1. SEPA checklist preparation

- Prepare a draft and final SEPA checklist consistent with the requirements of WAC 197-11.
- Provide SEPA response to comment support with up to 10 unique responses to public comments.

12.2. Permit Support

- Prepare, on behalf of the CITY, a NPDES Stormwater Permit application form.
- Prepare City of Marysville Clear & Grade, Stormwater Checklist, Demolition, and Building Permits applications.
- Coordinate with the CITY permit reviewers to facilitate review and comments.

CITY Responsibilities:

- Provide any existing project data or environmental reports prepared for previous work along the State Avenue Corridor and nearby development projects.
- CITY will handle SEPA processing based on SEPA checklist drafted by the CONSULTANT.
- The SEPA checklist and SEPA determination will be signed by the CITY
- Public notification will be handled by CITY staff. Copying, distribution, signage, postage, etc., are not covered in this scope of work.
- Conduct review and provide comment on the draft SEPA checklist.
- Provide timely review of all deliverables and a consolidated list of review comments to the CONSULTANT, in accordance with the project schedule.

Assumption(s):

-
- SEPA checklist preparation will not require separate field work, study or analysis by the CONSULTANT. Information to prepare the checklist will be gathered from known data sources, mapping, online research and existing documents provided by the CITY.
- The CITY will formally issue the SEPA determination and distribute public notice and supporting materials to the appropriate agencies and the public.
- Mailing lists and postage fees will be provided by the CITY.
- Public notification mailing, distribution, posting at public facilities (library, City Hall, county facilities, etc.), and on-site posting as required will also be handled by the CITY.
- Coordination and payment for the public notice in the local newspapers will be handled by the CITY.

- Scope and budget to support a SEPA appeal is not included and is considered Extra Work.
- Roadway plans in MicroStation format for the proposed alignment will be provided for use with GIS in TNM modeling.
- Design year traffic data will be provided by the CITY or CONSULTANT traffic engineers.
- Interim year and design year traffic volumes (or growth rates) including turning movements and signal timing data will be provided by the CITY or CONSULTANT traffic engineers.
- The regulators (CITY, Tulalip Tribe and Natural Resource Agencies) all agree on the logical termini and independent utility.
- Each document is limited to two review and revision cycles by CITY and Natural Resource Agencies.
- Changes to the project description and/or project area may necessitate modifications to this scope of services; such changes will be considered as Extra Work.

Deliverable(s):

- Draft and Final SEPA Checklist.
- Draft and Final NPDES Stormwater Permit application.
- City Permits (Clear & Grade, Stormwater Checklist, Demolition, Building).

TASK 13. FINAL DESIGN - PS&E

The CONSULTANT shall follow the guidelines set forth in the CITY's *Design Standards and Plans Preparation Manual* when preparing the 100%, and Ad-Ready plans, specifications and estimate.

Assumption(s):

- The level of effort and fee estimate for this task is based on the number of sheets for each discipline as shown in the sheet list provided. The sheet list was initially prepared based on CONSULTANT's knowledge of the project scope and anticipated work elements, with the actual number of sheets developed through the previously completed 90% Submittal. It is anticipated that the number of sheets will not increase during development of the 100% and Ad-Ready construction documents submittals.

13.1. General

CONSULTANT will prepare the contract drawings in accordance with the CITY's design standards. Unless otherwise noted or directed by the CITY, CONSULTANT will prepare plan view sheets at a 1" = 20' scale (full size) and 1" = 40' scale (half size).

CONSULTANT will prepare a cover sheet including an index of drawings. The list of plan sheet titles in the indices will exactly match the titles as they appear on the plan sheets.

CONSULTANT will prepare a vicinity map showing the project limits. The vicinity map will include the beginning and ending of construction, stations, major cross streets, waterways, and critical areas.

CONSULTANT will prepare a sheet layout index for each scale used showing the sheet layout for the various disciplines. CONSULTANT will prepare general notes, abbreviations, and symbols sheet.

13.2. 100% Submittal

13.2.1. 100% Plans

The CONSULTANT will further develop the previously completed 90% plans to a 100% plan level including the sheets listed in the following table.

The anticipated sheet list for final design includes:

100% & Ad-Ready Submittal Sheet List

Sheet Description	100%	AD
Cover Sheet with Vicinity Map and Index	2	2
Legend, General Notes, Abbreviations, and Project Key map	2	2
Roadway Typical Sections	3	3
Alignment, Profile, and ROW Plans	12	12
Site Preparation & TESC Plans	9	9
Paving Plans	8	8
Paving Details	4	4
Intersection & Curb Ramp Grading Details	6	6
Driveway and Property Plans	11	11
Drainage Plans and Profiles	15	15
Drainage Details	4	4
Pavement Marking & Signing Plans	9	9
Pavement Marking Details	1	1
Signing Schedule & Details	1	1
Signals, Illumination & ITS Plans	22	22
Signal Details (3 Intersections)	3	3
Illumination Schedule & Details	3	3
ITS Details	2	2
Landscaping and Irrigation Plans	8	8
Landscaping Details	1	1
Irrigation Details	1	1
Utility Plans and Profiles	13	13
Utility Details	3	3
Water Main Plans	8	8
Water Main Details	1	1
Sewer Plans	4	4
Sewer Details	1	1
Staging and Traffic Control Sequencing Notes	1	1
Staging and Traffic Control Plans	2	2
Total # Sheets	160	160

13.2.2. 100% Specifications

The CONSULTANT will update the specifications with any new or additional special provisions from the advancement of design and incorporation of CITY comments. The CONSULTANT shall run the “run-list” prior to submittal. The work included in this scope of services is based on the assumption that the PROJECT will be constructed per WSDOT 2021 Standard Specifications.

13.2.3. 100% Engineer's Opinion of Cost

CONSULTANT's Engineer's Estimate shall develop an opinion of cost and document the estimate with backup quantity calculations. Backup calculations (including quantity takeoff sheets), showing assumptions made in determining quantities for each bid item, shall be made available upon request. Backup calculations shall specifically include items measured by the appropriate unit. The Engineer's Estimate will include an itemized list in tabular form, describing section, item, number of units (quantity), estimated unit costs and total cost, with the understanding that any cost opinion or Engineer's Estimate provided by the CONSULTANT will be on the basis of experience and judgment. The estimate shall be prepared using standard unit costs and lump sum prices. The "Bid Proposal" within the boilerplate specifications shall be prepared from this information by the CONSULTANT.

13.2.4. Ad-Ready Submittal

CONSULTANT will use the 90% design plans and progress to the Ad-Ready design and plan level. The CONSULTANT will take into consideration the 90% design review comments from the CITY while advancing to the Ad-Ready level.

13.2.5. Ad-Ready Plans

The CONSULTANT will further develop the 90% plans to an Ad-Ready plan level without the addition of any new sheets.

13.2.6. Ad-Ready Specifications

The CITY will supply the CONSULTANT with the current version of the CITY's Special Provisions. The CITY's boilerplate specifications are supplied in a Microsoft Word format. CONSULTANT will be required to create a "run-list" and edit the boilerplate version by supplementing project specific information. Since the CITY updates the boilerplate specifications, the CONSULTANT shall keep a current project "run-list" and rerun the batch program prior to each plan submittal.

13.2.7. Ad-Ready Engineer's Opinion of Cost

CONSULTANT's Engineer's Estimate shall develop an opinion of cost and document the estimate with backup quantity calculations. Backup calculations (including quantity takeoff sheets), showing assumptions made in determining quantities for each bid item, shall be made available upon request. Backup calculations shall specifically include items measured by the appropriate unit. The Engineer's Estimate will include an itemized list in tabular form, describing: section, item, and number of units (quantity), estimated unit costs, and total cost, with the understanding that any cost opinion or Engineer's Estimate provided by the CONSULTANT will be on the basis of experience and judgment. The estimate shall be prepared using standard unit costs and lump sum prices. The Ad-Ready opinion of probably cost will not include contingencies as all elements of work are defined. The "Bid Proposal" within the boilerplate specifications shall be prepared from this information by the CONSULTANT.

Assumption(s):

1. The federal, state and local codes, standards and specifications will be those in effect at the time of the 100% Submittal.
2. The CONSULTANT will upload submittals to the project FTP site.
3. The CITY will contact PROJECT stakeholders to download and review submittals.

4. The 100% Review and documentation will be conducted via BlueBeam Studio Session, with the 100% Comment Review Meeting will be held virtually.
5. The CITY will be responsible for consolidating all review comments into one coordinated set of resolved Review Comments, provided to the CONSULTANT in electronic (PDF) format.
6. There will be one 100% Review Period lasting no more than 10 calendar days.
7. There will be no CITY comment review of the Ad-Ready submittal.

Deliverable(s):

- 100% Plans, Project Manual (Specifications, and Engineer's Opinion of Cost
- Ad-Ready Plans, Project Manual (Specifications, and Engineer's Opinion of Cost

TASK 15. REAL ESTATE SERVICES

The objective of this task is to provide assistance to the CITY in acquiring the necessary ROW, permanent easements and temporary construction easements to construct the roadway and utility improvements for Segment 2. CONSULTANT will provide the services listed below.

15.1. Real Estate Services Management

- Provide overall management for all appraisal and real estate services (RES).
- Prepare a monthly status report in excel format beginning when appraisals are commenced on the project.
- Attend periodic RES project status meetings.
- Provide QA/QC for work products.
- Establish clear lines of communication with the CITY in order to determine and document the appropriate decision-making process to achieve project goals and to provide open access to all available data that is pertinent to the project.

15.2. Property Descriptions and Valuations

- Review and QC legal descriptions, exhibits, and ROW plans prepared by survey SUBCONSULTANT (1-Alliance) for the transfer of the property rights needed for construction, including fee interests, permanent and temporary easements, for use by the ROW acquisition team.
- Prepare an appraisal schedule for delivery of updated AOS reports, and appraisal reports.
- Assemble all needed appraisal data and appraisal scope for each assigned parcel.
- Send out landowner contact letters to all affected parcels to be appraised in advance of the appraisal.
- Agents will attend appraisal inspections, where possible.
- Manage the delivery of AOS reports, appraisals, and prepare OC checklist for appraisal reports.

15.3. Right-of-Way Acquisitions and Negotiations.

- Prepare *offer* packages, present offers and negotiate purchases, prepare administrative settlement memos and condemnation packages, and prepare executed documents for agency approval and processing for a maximum of seven (7) parcels. All acquisition files will be transmitted to the CITY with all original documents at the completion of negotiations.
- Prepare all documents required for the assigned parcels including Offer Letters, Deeds, Easements, W-9's, Real Property Vouchers, Real Estate Tax Affidavits, Escrow Agreements, and Negotiator Diaries.
- Act as the agent for CITY in all negotiations.
- Provide justification in the negotiator's diary for any settlement above the approved offering price.
- Prepare administrative settlement memos and condemnation packages as needed.
- Transmit completed files to CITY at the completion of negotiations.

- Assist CITY with ROW pre-certification file review and final ROW Certification by preparing final certification-ready files and overview spreadsheet and attend a maximum of two (2) certification meetings with the CITY (as necessary).

CITY Responsibilities:

1. Provide CONSULTANT with a copy of WSDOT approved ROW acquisition procedures.
2. Approve the form and content of the status reports.
3. Attend all RES project status meetings.
4. Review and approve the appraisal schedule.
5. Review all valuation materials and sign AOS reports and the determination of value statements.
6. Review and approve all form documents and deed forms prepared by CONSULTANT.
7. Approve all administrative settlements.
8. Process all landowner payments, clear all encumbrances, and manage escrow or in-house closing for all acquisitions.
9. Make prompt payment to the owner or escrow company for all approved acquisitions.
10. Review and approve all transmitted files, as well as files and documents prepared by HDR for any required WSDOT ROW precertification and certification reviews.

Assumption(s):

1. CONSULTANT shall follow the Uniform Relocation Act, WSDOT Local Agency Guidelines (LAG) manual, all applicable State and local laws, and CITY administrative rules for ROW acquisition for all real estate services provided for this project.
2. CITY will provide all real estate forms that CONSULTANT will use and those forms shall be consistent with CITY acquisition practice.
3. CITY will provide CONSULTANT with available project information such as but not limited to the CITY's State approved ROW procedures, and environmental documentation.
4. All valuation services will be performed by a WSDOT certified independent appraiser to WSDOT LAG manual standards. There will be a maximum of seven (7) parcels impacted by this project with seven (7) parcel valuations prepared under the following assumptions:
 - a. Three (3) parcels will be valued as AOS reports.
 - b. Four (4) parcels to be valued as appraisal reports.
 - c. Four (4) appraisal reviews.
 - d. The appraisals include a maximum of two (2) non-complex and two (2) complex parcels. If the original preliminary funding estimate identifies parcels valued at \$25,000 or less, AOS reports will be used and valuation costs may be reduced accordingly.
 - e. Any additional appraisals or additional complex appraisals not anticipated in this scope will result in additional costs to CITY.

- f. Notice to Proceed (NTP) for AOS reports and appraisals will be the date sufficient ROW plans or exhibits are provided with title and landowner contact info to the appraiser.
 - g. NTP for the appraisal reviews will be the day the appraisals are delivered to the reviewer.
 - h. The anticipated delivery date for all appraisals is 75 days from NTP and for all reviews is 45 days from NTP.
 - i. Appraisal reviews will be desk reviews of a maximum of four (4) parcels.
5. For real estate services the CONSULTANT's title review responsibilities shall be limited to identifying the correct vesting from the title report and inputting that information into the appropriate acquisition documents. All encumbrances to be cleared will be identified by the CITY and cleared by the CITY or in escrow.
6. CONSULTANT shall make a maximum of three (3) good faith attempts at negotiations for each parcel assigned with those attempts being defined as an in-person visit with landowner, a detailed phone conversation or a substantive correspondence or email exchange.
7. The initial offers to purchase will be delivered in person, if possible, in order to present the details of the offer. If an in-person is not possible, the offer will be delivered by mail and a virtual meeting scheduled to explain the details of the offer. The offer letter along with the associated RES documents, and presentation shall be considered a good faith landowner contact.
8. If negotiations cannot be concluded within 60 days of the offer date on any given parcel or if an appraisal is requested by a landowner for any AOS parcel, then the hours to complete those parcels will be re-negotiated and adjusted accordingly.
9. This scope of services and associated budget is based on a level of effort not to exceed 60 hours per parcel for five (5) negotiated parcels with valuations, and 20 hours per parcel for two (2) parcels with only title review and any necessary corresponding signatures. Should a parcel require negotiation services beyond this basis, it will be considered Extra Work.
10. Acquisition activities on any given parcel shall be deemed completed if any of the following occurs; a negotiated settlement is reached, a second or updated offer is made, the offer is rescinded, the parcel is transmitted for condemnation, or the 60-day negotiation period has been exceeded.
11. The CITY will contract directly with the escrow company for closing and title reports. When the CITY receives acceptable transfer of ownership documents from CONSULTANT, they will be signed by the CITY and forwarded to the title/escrow company for processing, recording and closing. For each acquisition, the escrow company will be responsible for the preparation and receipt of all signatures on all documents including, but not limited to, Waivers of Compensation, Requests for Partial Re-conveyance, and satisfaction of all liens and encumbrances.
12. CONSULTANT will transmit completed files at the time or immediately after signed documents are submitted to the CITY for processing or when a file is returned to CITY at completion of negotiations as defined within this scope with any documents or other information needing to be added to the file noted in a checklist at the time of transmittal.
13. For this supplemental effort (completion of Segment 2), there will be a maximum of seven (7) parcels where ROW and temporary construction easements will need to be acquired for this project. However, there will be no compensation due to the landowner if it is determined that any minor acquisition is a mutual benefit to the landowner and the CITY.

14. It is anticipated that there will be a maximum of six (6) RES status reports produced and six (6) RES status meetings with the CITY, to be held via conference call, with a maximum of two (2) CONSULTANT staff participating in each conference call. Staff time commitment is estimated at 2 hours per conference call for preparation, participation in the call and notes.
15. CONSULTANT shall have a minimum of one and a maximum of three staff attending any scheduled property owner meetings.
16. All meetings are anticipated to be held via conference or video call, using a format suitable to the CONSULTANT; except possible in-person offer presentation meetings with the property owners.
17. There will be one (1) WSDOT pre-negotiation and one (1) WSDOT post-negotiation ROW certification meeting with a maximum of two (2) CONSULTANT staff in attendance. WSDOT meetings (virtual) are anticipated to be held via the use of a format suitable to the CONSULTANT. There will be a maximum of one round of responses for clarification, changes, or additional information after each ROW certification meeting.

Deliverable(s):

1. RES Status Reports (maximum of 6)
2. Meeting summary notes (electronic PDF)
3. Redline review and QC of legal descriptions, survey exhibits, and for ROW plans
4. Appraisal management and schedule
5. Landowner Appraisal Site Inspection Contact letters
6. AOS reports and QC Checklist
7. Appraisal Reports, Appraisal QC Checklists, and Appraisal Reviews
8. Completed acquisition documents
9. Administrative Settlement Memos
10. Executed acquisition documents to CITY for closing and payment
11. Completed files or condemnation packages
12. Right-of-Way Certification overview report and meeting summary notes

TASK 17. BIDDING PHASE ASSISTANCE

The objective of this task is to provide assistance to the CITY during the advertisement for construction and bidding phase in order to provide information to prospective bidders to support a competitive bidding environment.

CONSULTANT will provide written responses to questions and requests for clarifications to the contract documents submitted to the CITY during the bidding period. Responses will be provided in Microsoft Word format and submitted to the CITY for inclusion in contract addenda.

CONSULTANT will evaluate Bidder requests for alternative (“or equal”) approvals during the bidding phase.

CONSULTANT will prepare for, attend and participate in the Pre-Bid Conference, to the extent that one may be deemed necessary.

CONSULTANT will assist the CITY in preparing all addenda.

CONSULTANT will attend the Bid Opening; however, will not actively participate in the opening of bids.

CITY Responsibilities:

Record, consolidate and deliver Bidder questions and requests for contract document interpretations to the CONSULTANT in timely fashion.

Schedule, organize and conduct the Pre-Bid Conference, if deemed necessary.

CITY will issue all addenda.

Assumption(s):

1. This PROJECT will be bid as one construction project.
2. Pre-Bid Conference will be held at the City of Marysville Public Works Offices and include a site visit – maximum labor effort for two CONSULTANT staff of 4 hours per staff member.
3. The budget for this task is limited to that amount shown in the project budget. Work beyond the budgeted amount will be considered extra work.


Deliverable(s):

1. Written responses to Bidders’ questions and requests for interpretations and evaluation of acceptable alternate (“or equals”)
2. Pre-bid addenda
3. Conformed set of contract documents

Index #6

CITY OF MARYSVILLE AGENDA BILL
EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 08, 2021

AGENDA ITEM:	
Amendment to the Grant Agreement No. WQC-MaryPW-00094 with the Department of Ecology for the Downtown Stormwater Treatment Project	
PREPARED BY:	DIRECTOR APPROVAL:
Steven Miller, Senior Project Manager	
DEPARTMENT:	
Public Works (Engineering)	
ATTACHMENTS:	
Grant Agreement Amendment Original Grant Agreement Vicinity and Basin Map	
BUDGET CODE:	AMOUNT:
40250594.563000, D1802	N/A
SUMMARY:	
<p>Council approved a grant agreement with the Department of Ecology on 07/09/18 in the amount of \$5,000,000 to treat stormwater from the downtown area which drains through an outfall at the Geddes Marina. A 140 acre treatment area was stipulated in the original agreement. During design of the project, City staff coordinated with Ecology to discuss approval of the use of funds to design a treatment facility to treat the entire downtown area, approximately 460 acres. The project area was subsequently divided into (2) areas, phase 1 and phase 2. Ecology has issued approval to design treatment for both phases, and has also approved an extension of the term for an additional year, extending the termination date from 06/30/2022, to 06/30/2023. The extension of the term will allow phase 1 construction to be completed concurrently with phase 2, which has been selected to receive additional Ecology funds under a separate grant. Phase 2 is expected to be awarded in early 2022 with an additional \$2,637,395 contribution towards construction.</p>	
RECOMMENDED ACTION:	
Staff recommends that Council authorize the Mayor to sign and execute amendment to the agreement with the Department of Ecology to extend the term of the agreement for one year, and to update the agreement for phase 1 and phase 2 design of the Downtown Stormwater Treatment Project.	
RECOMMENDED MOTION:	
I move to authorize the Mayor to sign and execute the amendment to the grant agreement with the Department of Ecology.	



AMENDMENT NO. 1
TO AGREEMENT NO. WQC-2018-MaryPW-00094
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
City of Marysville

PURPOSE: To amend the above-referenced agreement (AGREEMENT) between the state of Washington Department of Ecology (ECOLOGY) and City of Marysville (RECIPIENT) for the Downtown Stormwater Treatment Design and Construction (PROJECT).

This amendment is needed to modify the short and long description and the scope of work, and to extend the expiration date of the agreement. The original project will now be divided into two phases. The amended agreement will include the design for both Phase 1 and Phase 2, and construction of Phase 1 only. ECOLOGY may amend the agreement at a future date to match the low responsive, responsible bid for construction of Phase 1.

Note: This amendment only includes the portions of the original agreement that have been changed in some way. If there were no changes, it will not be referenced in the following portion of the amendment.

IT IS MUTUALLY AGREED that the AGREEMENT is amended as follows:

Expiration Date:

Original: 06/30/2022 Amended: 06/30/2023

Project Short Description:

Original:

This project will improve water quality in the Snohomish River and the Ebey Slough through the installation of a lift station that will convey stormwater runoff to media filter systems at the site of the former Geddes Marina and Welco Lumber Mill, in the City of Marysville. The project will provide treatment for Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper, Dissolved Zinc, and Total Phosphorus.

Amended:

This project will improve water quality in the Snohomish River and the Ebey Slough through the installation of a lift station that will convey stormwater runoff to media filter systems at the site of the former Geddes Marina, in the City of Marysville. The project will provide treatment for Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper, Dissolved Zinc, and Total Phosphorus.

Project Long Description:

Amended:

This project will improve water quality in the Snohomish River and the Ebey Slough through the design of two treatment systems at the site of the former Geddes Marina, in the City of Marysville. The project site has a 140-acre contributing basin that is currently discharging untreated stormwater from the historic downtown area via a pipe system to the Snohomish River and the Ebey Slough. The RECIPIENT purchased the former Geddes Marina and Welco Lumber Mill sites for use as a park. In the park plan, space is allocated for stormwater treatment from the contributing basin.

The Snohomish River and Ebey Slough are waterbodies with 303(d) listings for dissolved oxygen, temperature, bacteria, and pH. The Snohomish River tributaries also have a total maximum daily load (TMDL) plan for fecal coliform that requires business inspections, specific public education and outreach, pest waste stations, basin screening for illicit connections with sampling, and surface water sampling in streams.

The RECIPIENT will design two independent stormwater treatment systems (Phase 1 and Phase 2), and install the Phase 1 treatment system including a lift station that will convey stormwater runoff to media filter systems. The systems will provide treatment for Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper, Dissolved Zinc, and Total Phosphorus.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

CHANGES TO THE BUDGET

Funding Distribution EG180460

Funding Title: SFAP

Funding Type: Grant

Funding Effective Date: 04/01/2018

Funding Expiration Date: 06/30/2023

Funding Source:

Title: SFAP-SFY17 (WQC-2017)

Type: State

Funding Source %: 5%

Description: Funds come from the Model Toxic Control Account and State Building Construction Account. It funds projects that reduce the environmental impact of Stormwater pollution

Title: SFAP-SFY18

Type: State
 Funding Source %: 95%
 Description: Environmental Legacy Stewardship Account (ELSA) - State

Approved Indirect Costs Rate: Approved State Indirect: 0%
 Recipient Match %: 25%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? No

SFAP	Task Total
Project Administration/Management	\$ 5,000.00
Design Plans and Specs, Environmental Review	\$ 901,666.67
Construction Management	\$ 240,000.00
Construction	\$ 5,520,000.00

Total: \$ 6,666,666.67

CHANGES TO SCOPE OF WORK

Task Number: 4 **Task Cost: \$5,520,000.00**

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of a lift station that will convey stormwater runoff to media filter systems to mitigate runoff from approximately 35 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix M of the funding guidelines for State Fiscal Year 2018 Combined Water Quality Financial Assistance Program or other ECOLOGY-accepted method.

Task Goal Statement:

Construction of the project in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper, Dissolved Zinc, and Total Phosphorus.

Recipient Task Coordinator: Jay Cooke

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in progress reports uploaded to EAGL.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SFAP	25 %	\$ 1,666,666.67	\$ 5,000,000.00	\$ 6,666,666.67
Total		\$ 1,666,666.67	\$ 5,000,000.00	\$ 6,666,666.67



Agreement No. WQC-2018-MaryPW-00094

WATER QUALITY COMBINED FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF MARYSVILLE

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and City of Marysville, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	Downtown Stormwater Treatment Design and Construction
Total Cost:	\$6,900,000.00
Total Eligible Cost:	\$6,666,666.67
Ecology Share:	\$5,000,000.00
Recipient Share:	\$1,666,666.67
The Effective Date of this Agreement is:	04/01/2018
The Expiration Date of this Agreement is no later than:	06/30/2022
Project Type:	Stormwater Facility

Project Short Description:

This project will improve water quality in the Snohomish River and the Ebey Slough through the installation of a lift station that will convey stormwater runoff to media filter systems at the site of the former Geddes Marina and Welco Lumber Mill, in the City of Marysville. The project will provide treatment for Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper, Dissolved Zinc, and Total Phosphorus.

Project Long Description:

This project will improve water quality in the Snohomish River and the Ebey Slough through the installation of treatment systems at the site of the former Geddes Marina and Welco Lumber Mill, in the City of Marysville. The project site has a 140-acre contributing basin that is currently discharging untreated stormwater from the historic downtown area via a pipe system to the Snohomish River and the Ebey Slough. The RECIPIENT purchased the former Geddes Marina and Welco Lumber Mill sites for use as a park. In the park plan, space is allocated for stormwater treatment from the contributing basin.

ORIGINAL

State of Washington Department of Ecology
Agreement No: WQC-2018-MaryPW-00094
Project Title: Downtown Stormwater Treatment Design and Construction
Recipient Name: City of Marysville

The Snohomish River and Ebey Slough are waterbodies with 303(d) listings for dissolved oxygen, temperature, bacteria, and pH. The Snohomish River tributaries also have a total maximum daily load (TMDL) plan for fecal coliform that requires business inspections, specific public education and outreach, pest waste stations, basin screening for illicit connections with sampling, and surface water sampling in streams.

The RECIPIENT will design and install a lift station that will convey stormwater runoff to media filter systems at the site of the former Geddes Marina and Welco Lumber Mill. This system will provide treatment for Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper, Dissolved Zinc, and Total Phosphorus.

Overall Goal:

This project will help protect and restore water quality in Washington by reducing stormwater impacts from existing infrastructure and development.

RECIPIENT INFORMATION

Organization Name: City of Marysville

Federal Tax ID: 91-6001459

DUNS Number: 076658673

Mailing Address: 80 Columbia Ave.
Marysville, WA 98270

Physical Address: 80 Columbia Ave.
Marysville, Washington 98270

Contacts

Project Manager	Jay Cooke Project Manager 80 Columbia Ave. Marysville, Washington 98270 Email: jcooke@marysvillewa.gov Phone: (360) 363-8100
Billing Contact	Suzanne Soule Financial Analyst 80 Columbia Ave. Marysville, Washington 98270 Email: ssoule@marysvillewa.gov Phone: (360) 363-8100
Authorized Signatory	Kari N Chennault Assistant Public Works Director 80 Columbia Avenue Marysville, Washington 98270 Email: kchennault@marysvillewa.gov Phone: (360) 363-8277

State of Washington Department of Ecology
 Agreement No: WQC-2018-MaryPW-00094
 Project Title: Downtown Stormwater Treatment Design and Construction
 Recipient Name: City of Marysville

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
 Water Quality
 PO BOX 47600
 Olympia, WA 98504-7600

Physical Address: Water Quality
 300 Desmond Drive SE
 Lacey, WA 98503

Contacts

<p>Project Manager</p>	<p>Cleo Neculae</p> <p>3190 - 160th Ave SE Bellevue, Washington 98008-5452 Email: cnec461@ecy.wa.gov Phone: (425) 649-7216</p>
<p>Financial Manager</p>	<p>Frances Carver</p> <p>PO Box 47600 Olympia, Washington 98504-7600 Email: fcar461@ecy.wa.gov Phone: (360) 407-6564</p>
<p>Technical Advisor</p>	<p>Dan Gariepy</p> <p>PO Box 47600 Olympia, Washington 98504-7600 Email: daga461@ecy.wa.gov Phone: (360) 407-6470</p>

AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

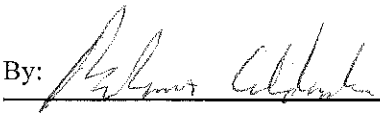
This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.


IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

City of Marysville

By:  8/1/18

By:  07/13/18

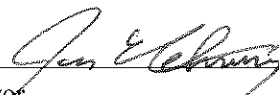
 Heather R. Bartlett
Water Quality
Program Manager
Date

Kari N Chennault
Assistant Public Works Director
Date


Template Approved to Form by
Attorney General's Office

State of Washington Department of Ecology
Agreement No: WQC-2018-MaryPW-00094
Project Title: Downtown Stormwater Treatment Design and Construction
Recipient Name: City of Marysville

Jon Nehring



Mayor 7/10/18
Date

Approved as to form


Jon Walker, City Attorney

SCOPE OF WORK

Task Number: 1 **Task Cost: \$5,000.00**

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT shall carry out all work necessary to meet ECOLOGY grant or loan administration requirements. Responsibilities include, but are not limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation; progress reports; and a recipient closeout report (including photos).

B. The RECIPIENT shall maintain documentation demonstrating compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

C. The RECIPIENT shall manage the project. Efforts include, but are not limited to: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT shall carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed and fully documented project that meets ECOLOGY's grant or loan administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports, and RECIPIENT closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Suzanne Soule

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Quarterly Progress Reports	
1.2	Recipient Closeout Report	
1.3	Project Outcome Summary Report	

State of Washington Department of Ecology
Agreement No: WQC-2018-MaryPW-00094
Project Title: Downtown Stormwater Treatment Design and Construction
Recipient Name: City of Marysville

SCOPE OF WORK

Task Number: 2 **Task Cost: \$901,666.67**

Task Title: Design Plans and Specs, Environmental Review

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY
The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

A. The RECIPIENT will coordinate the preparation and submittal of State Environmental Policy Act (SEPA) documentation.

B. The RECIPIENT is responsible for application of, receipt of, and compliance with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.

C. The RECIPIENT will comply with Executive Order (05-05) cultural resources review requirements. To initiate cultural resources review the RECIPIENT will:

1. Submit an ECOLOGY 05-05/106 Form, or a cultural resources survey or assessment completed by a licensed archaeologist to ECOLOGY. All submitted materials must conform to the Washington State Standards for Cultural Resource Reporting (DAHP February 2014).
2. Develop and submit an Inadvertent Discovery Plan (IDP) to ECOLOGY. The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. An IDP template may be found on the ECOLOGY website.

Ground disturbing work (including geotechnical investigations) completed prior to receiving written notice to proceed from ECOLOGY shall not be eligible for reimbursement.

D. The RECIPIENT will develop a project Design Report. Projects must be designed in accordance with the Stormwater Management Manual for Eastern Washington, Stormwater Management Manual for Western Washington, or equivalent manual. Project must be reviewed and accepted in writing by ECOLOGY to be eligible for reimbursement.

The RECIPIENT will submit a digital copy of the items listed below to ECOLOGY for review. Reduce design figures to 11x17 inches in size and ensure they are legible.

1. Design Report. For a complete list of required design report elements refer to the ECOLOGY website.

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology Design Report Acceptance Letter prior to proceeding to 90 Percent design.

2. 90 Percent Design Package. At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule. For current bid inserts and specifications refer to the ECOLOGY website.

State of Washington Department of Ecology
Agreement No: WQC-2018-MaryPW-00094
Project Title: Downtown Stormwater Treatment Design and Construction
Recipient Name: City of Marysville

The RECIPIENT agrees to respond to ECOLOGY comments. The RECIPIENT must receive an Ecology 90 Percent Design Acceptance Letter prior to proceeding Final Design.

3. The RECIPIENT will submit a digital copy of the Final Bid Package to ECOLOGY for review and acceptance prior to advertising the project. The Final Bid Package includes: project plans, specifications, engineer's opinion of cost including a schedule of eligible costs, and project construction schedule.

Task Goal Statement:

The RECIPIENT will complete all design, environmental review, and permitting tasks and respond to ECOLOGY comments in a timely manner.

Task Expected Outcome:

The project will meet the requirements set forth by the State Environmental Policy Act, cultural resource protection requirements, ECOLOGY water quality facility design standards, and all other applicable federal, state and local laws and regulations.

Recipient Task Coordinator: Jay Cooke

Design Plans and Specs, Environmental Review

Deliverables

Number	Description	Due Date
2.1	Copy of SEPA determination documentation. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.2	Submit ECOLOGY 05-05/106 Form and any supplemental cultural resources documentation including Cultural Resource surveys directly to the Ecology Project Manager. Upload the Final Determination Letter to EAGL.	
2.3	Inadvertent Discovery Plan. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.4	Design Report. Submit one digital copy to the ECOLOGY Project Manager and upload to EAGL.	
2.5	Responses to ECOLOGY Design Report Comments. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one digital copy of required revisions of the Design Report to ECOLOGY Project Manager. ECOLOGY Project Manager will forward the Design Report to ECOLOGY Engineer for review.	
2.6	Ecology Design Report Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.7	90 Percent Design Package. Upload to EAGL and submit one digital copy to ECOLOGY project manager.	
2.8	Responses to ECOLOGY 90 Percent Design Plan comments. Upload to EAGL and notify ECOLOGY when upload is complete. Submit one digital copy of revisions of the 90 Percent Design Package to ECOLOGY Project Manager. ECOLOGY Project Manager will forward the 90 Percent Design Package to ECOLOGY Engineer for review.	
2.9	Ecology 90 percent Design Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.10	List of permits acquired, and environmental review documents. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.11	Final Bid Package. Upload to EAGL and notify ECOLOGY when upload is complete.	
2.12	Ecology Final Bid Package Acceptance Letter. Upload to EAGL and notify ECOLOGY when upload is complete.	

SCOPE OF WORK

Task Number: 3 **Task Cost: \$240,000.00**

Task Title: Construction Management

Task Description:

A. The RECIPIENT will provide construction oversight and management of the project.

B. The RECIPIENT will submit a detailed construction quality assurance plan to ECOLOGY for review and acceptance before the start of construction. This plan must describe how the RECIPIENT will perform adequate and competent construction oversight. Once accepted by Ecology, upload to EAGL.

C. The RECIPIENT will conduct a pre-construction conference meeting and invite ECOLOGY to attend.

D. The RECIPIENT will submit an updated project schedule with projected cash flow to ECOLOGY within 30 days of the start of construction. The RECIPIENT will revise and/or update the project schedule whenever major changes occur and at a minimum of every three months. The RECIPIENT will submit the updated schedule to ECOLOGY with the quarterly report. When changes in the construction schedule affect previous cash flow estimates, The RECIPIENT must submit revised cash flow projections to ECOLOGY.

E. Prior to execution, the RECIPIENT will submit in writing any eligible change orders that are a significant deviation from ECOLOGY-accepted plans and specifications for ECOLOGY review and acceptance for payment. ECOLOGY must review and accept all change orders that impact grant eligible activities prior to implementation. ECOLOGY must review all other change orders for technical merit and should be submitted within 30 days after execution. Change orders are to be signed by the contractor, the engineer (if appropriate), and the RECIPIENT prior to submittal to ECOLOGY for acceptance.

F. The RECIPIENT will operate and maintain the constructed facility for the design life of the facility. Additionally, the RECIPIENT will develop and submit an operations and maintenance (O&M) plan for all Water Quality Best Management Practices to ECOLOGY for review. The O&M plan will describe how the RECIPIENT will ensure project success consistent with the design manual used. The O&M plan must also address long-term activities to assure ongoing pollutant removal and flow-control capability of the project in accordance with the design manual.

G. Upon completion of construction, the RECIPIENT will provide to ECOLOGY:

1. A Stormwater Construction Completion Form signed by a professional engineer indicating that the project was completed in accordance with the plans and specifications and major change orders approved by ECOLOGY's Project Engineer and shown on the Record Drawings. The Stormwater Construction Completion Form can be found on the ECOLOGY website.

2. GIS compatible project area in Shapefile, Geodatabase file, or ECOLOGY-Approved Equivalent. The project area should include features for treatment facilities and contributing areas.

Task Goal Statement:

The RECIPIENT will oversee and manage construction, communicate with ECOLOGY in a timely fashion, and provide ECOLOGY with all requested project documentation.

Task Expected Outcome:

Project will be constructed on schedule and in accordance with accepted plans.

Recipient Task Coordinator: Jay Cooke

Construction Management

Deliverables

Number	Description	Due Date
3.1	Construction Quality Assurance Plan. Submit to ECOLOGY for review and acceptance. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.2	Pre-construction conference meeting minutes. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.3	Project Schedule. Upload to EAGL using naming convention D3.3 SCHEDULE MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.4	Revised cash flow estimates when changes in construction schedule occur. Upload to EAGL using naming convention D3.4 CASHFLOW MO-DA-YEAR and notify ECOLOGY when upload is complete.	
3.5	Change Order(s). Upload to EAGL and notify ECOLOGY when upload is complete.	
3.6	Copy of Facility Operation and Maintenance Plan. Submit to ECOLOGY for review and acceptance. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.7	Stormwater Construction Completion Form. Upload to EAGL and notify ECOLOGY when upload is complete.	
3.8	Project Area Shapefile, Geodatabase file, or ECOLOGY-approved Equivalent. The project area should include features for treatment facilities and contributing areas. Upload to EAGL and notify ECOLOGY when upload is complete.	

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SCOPE OF WORK

Task Number: 4 **Task Cost: \$5,520,000.00**

Task Title: Construction

Task Description:

A. The RECIPIENT will, in accordance with ECOLOGY-accepted plans and specifications, complete construction of the project. The construction project will include installation of a lift station that will convey stormwater runoff to media filter systems to mitigate runoff from approximately 70 acres of pollution generating impervious surfaces.

B. Calculate and submit an equivalent new/re-development area for the completed retrofit project(s) using the methods outlined in Appendix M of the funding guidelines for State Fiscal Year 2018 Combined Water Quality Financial Assistance Program or other ECOLOGY-accepted method.

Task Goal Statement:

Construction of the project in accordance with ECOLOGY-accepted plans and specifications.

Task Expected Outcome:

Constructed project will provide water quality benefits including reductions in Total Suspended Solids (TSS), Oil (Total Petroleum Hydrocarbons), Dissolved Copper, Dissolved Zinc, and Total Phosphorus.

Recipient Task Coordinator: Jay Cooke

Construction

Deliverables

Number	Description	Due Date
4.1	Copy of the contract documents (e.g. bid announcement, bid award and bid tabulations). Upload to EAGL and notify ECOLOGY when upload is complete.	
4.2	Copy of signed and dated construction contract. Upload to EAGL and notify ECOLOGY when upload is complete.	
4.3	Construction progress reports and photos included in progress reports uploaded to EAGL.	
4.4	Completed equivalent new/redevelopment area determination. Upload to EAGL and notify ECOLOGY when upload is complete.	

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BUDGET

Funding Distribution EG180460

NOTE: *The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: SFAP Funding Type: Grant
Funding Effective Date: 04/01/2018 Funding Expiration Date: 06/30/2022

Funding Source:

Title: SFAP-SFY17 (WQC-2017)

Type: State

Funding Source %: 5%

Description: Funds come from the Model Toxic Control Account and State Building Construction Account. It funds projects that reduce the environmental impact of Stormwater pollution

Title: SFAP-SFY18

Type: State

Funding Source %: 95%

Description: Environmental Legacy Stewardship Account (ELSA) - State

Approved Indirect Costs Rate: Approved State Indirect Rate: 0%

Recipient Match %: 25%

InKind Interlocal Allowed: No

InKind Other Allowed: No

Is this Funding Distribution used to match a federal grant? No

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SFAP	Task Total
Project Administration/Management	\$ 5,000.00
Design Plans and Specs, Environmental Review	\$ 901,666.67
Construction Management	\$ 240,000.00
Construction	\$ 5,520,000.00

Total: \$ 6,666,666.67

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
SFAP	25.00 %	\$ 1,666,666.67	\$ 5,000,000.00	\$ 6,666,666.67
Total		\$ 1,666,666.67	\$ 5,000,000.00	\$ 6,666,666.67

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

SECTION 1: DEFINITIONS

Unless otherwise provided, the following terms will have the respective meanings for all purposes of this agreement:

“Administration Charge” means a charge established in accordance with Chapter 90.50A RCW and Chapter 173-98 WAC, to be used to pay Ecology’s cost to administer the State Revolving Fund by placing a percentage of the interest earned in an Administrative Charge Account.

“Administrative Requirements” means the effective edition of ECOLOGY's Administrative Requirements for Recipients of Ecology Grants and Loans at the signing of this agreement.

“Annual Debt Service” for any calendar year means for any applicable bonds or loans including the loan, all interest plus all principal due on such bonds or loans in such year.

“Average Annual Debt Service” means, at the time of calculation, the sum of the Annual Debt Service for the remaining years of the loan to the last scheduled maturity of the loan divided by the number of those years.

“Acquisition” means the purchase or receipt of a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

“Centennial Clean Water Program” means the state program funded from various state sources.

“Contract Documents” means the contract between the RECIPIENT and the construction contractor for construction of the project.

“Cost Effective Analysis” means a comparison of the relative cost-efficiencies of two or more potential ways of solving a water quality problem as described in Chapter 173-98-730 WAC.

“Defease” or “Defeasance” means the setting aside in escrow or other special fund or account of sufficient investments and money dedicated to pay all principal of and interest on all or a portion of an obligation as it comes due.

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“Effective Date” means the earliest date on which eligible costs may be incurred.

“Effective Interest Rate” means the total interest rate established by Ecology that includes the Administrative Charge.

“Estimated Loan Amount” means the initial amount of funds loaned to the RECIPIENT.

“Estimated Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Estimated Loan Amount.

“Equivalency” means projects designated by ECOLOGY to meet additional federal requirements.

“Expiration Date” means the latest date on which eligible costs may be incurred.

“Final Accrued Interest” means the interest accrued beginning with the first disbursement of funds to the RECIPIENT through such time as the loan is officially closed out and a final loan repayment schedule is issued.

“Final Loan Amount” means all principal of and interest on the loan from the Project Start Date through the Project Completion Date.

“Final Loan Repayment Schedule” means the schedule of loan repayments over the term of the loan based on the Final Loan Amount.

“Forgivable Principal” means the portion of a loan that is not required to be paid back by the borrower.

“General Obligation Debt” means an obligation of the RECIPIENT secured by annual ad valorem taxes levied by the RECIPIENT and by the full faith, credit, and resources of the RECIPIENT.

“General Obligation Payable from Special Assessments Debt” means an obligation of the RECIPIENT secured by a valid general obligation of the Recipient payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

“Gross Revenue” means all of the earnings and revenues received by the RECIPIENT from the maintenance and operation of the Utility and all earnings from the investment of money on deposit in the Loan Fund, except (i) Utility Local Improvement Districts (ULID) Assessments, (ii) government grants, (iii) RECIPIENT taxes, (iv) principal proceeds of bonds and other obligations, or (v) earnings or proceeds (A) from any investments in a trust, Defeasance, or escrow fund created to Defeasance or refund Utility obligations or (B) in an obligation redemption fund or account other than the Loan Fund until commingled with other earnings and revenues of the Utility or (C) held in a special account for the purpose of paying a rebate to the United States Government under the Internal Revenue Code.

“Guidelines” means the ECOLOGY's Funding Guidelines that that correlate to the State Fiscal Year in which the project is funded.

“Initiation of Operation Date” means the actual date the Water Pollution Control Facility financed with proceeds of the loan begins to operate for its intended purpose.

“Loan” means the Washington State Water Pollution Control Revolving Fund Loan or Centennial Clean Water Fund (Centennial) Loan made pursuant to this loan agreement.

“Loan Amount” means either an Estimated Loan Amount or a Final Loan Amount, as applicable.

“Loan Fund” means the special fund created by the RECIPIENT for the repayment of the principal of and interest on the loan.

“Loan Security” means the mechanism by which the RECIPIENT pledges to repay the loan.

“Loan Term” means the repayment period of the loan.

“Maintenance and Operation Expense” means all reasonable expenses incurred by the RECIPIENT in causing the Utility to be operated and maintained in good repair, working order, and condition including payments to other parties, but will not include any depreciation or RECIPIENT levied taxes or payments to the RECIPIENT in lieu of taxes.

“Net Revenue” means the Gross Revenue less the Maintenance and Operation Expense.

“Original Engineer’s Estimate” means the engineer’s estimate of construction costs included with bid documents.

“Principal and Interest Account” means, for a loan that constitutes Revenue-Secured Debt, the account created in the loan fund to be first used to repay the principal of and interest on the loan.

“Project” means the project described in this agreement.

“Project Completion Date” means the date specified in the agreement on which the Scope of Work will be fully completed. This term is only used in loan agreements.

“Project Schedule” means that schedule for the project specified in the agreement.

“Revenue-Secured Debt” means an obligation of the RECIPIENT secured by a pledge of the revenue of a utility and one not a general obligation of the RECIPIENT.

“Reserve Account” means, for a loan that constitutes a Revenue Secured Debt and if specifically identified as a term and condition of the funding agreement, the account of that name created in the loan fund to secure the payment of the principal of and interest on the loan.

“Risk-Based Determination” means an approach to sub-recipient monitoring and oversight based on risk factors associated to a RECIPIENT or project.

“Scope of Work” means the tasks and activities constituting the project.

“Section 319” means the section of the Clean Water Act that provides funding to address nonpoint sources of water pollution.

“Senior Lien Obligations” means all revenue bonds and other obligations of the RECIPIENT outstanding on the date of execution of this loan agreement (or subsequently issued on a parity therewith, including refunding obligations) or

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issued after the date of execution of this loan agreement having a claim or lien on the Gross Revenue of the Utility prior and superior to the claim or lien of the loan, subject only to Maintenance and Operation Expense.

“State Water Pollution Control Revolving Fund (Revolving Fund)” means the water pollution control revolving fund established by Chapter 90.50A.020 RCW.

“Termination Date” means the effective date of ECOLOGY’s termination of the agreement.

“Termination Payment Date” means the date on which the RECIPIENT is required to repay to ECOLOGY any outstanding balance of the loan and all accrued interest.

“Total Eligible Project Cost” means the sum of all costs associated with a water quality project that have been determined to be eligible for ECOLOGY grant or loan funding, including any required recipient match.

“Total Project Cost” means the sum of all costs associated with a water quality project, including costs that are not eligible for ECOLOGY grant or loan funding.

“ULID” means any utility local improvement district of the RECIPIENT created for the acquisition or construction of additions to and extensions and betterments of the Utility.

“ULID Assessments” means all assessments levied and collected in any ULID. Such assessments are pledged to be paid into the Loan Fund (less any prepaid assessments permitted by law to be paid into a construction fund or account). ULID Assessments will include principal installments and any interest or penalties which may be due.

“Utility” means the sewer system, stormwater system, or the combined water and sewer system of the RECIPIENT, the Net Revenue of which is pledged to pay and secure the loan.

SECTION 2: THE FOLLOWING CONDITIONS APPLY TO ALL RECIPIENTS OF WATER QUALITY COMBINED FINANCIAL ASSISTANCE FUNDING.

The Water Quality Financial Assistance Funding Guidelines are included in this agreement by reference and are available on ECOLOGY’s Water Quality Program website.

A. Architectural and Engineering Services: The RECIPIENT certifies by signing this agreement that the requirements of Chapter 39.80 RCW, “Contracts for Architectural and Engineering Services,” have been, or shall be, met in procuring qualified architectural/engineering services. The RECIPIENT shall identify and separate eligible and ineligible costs in the final architectural/engineering services contract and submit a copy of the contract to ECOLOGY.

B. Acquisition: The following provisions shall be in force only if the project described in this agreement is an acquisition project:

a. Evidence of Land Value and Title. The RECIPIENT shall submit documentation of the cost of the property rights and the type of ownership interest that has been acquired.

b. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased

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with funding assistance provided through this agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the agreement before final payment.

c. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT shall execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired, and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT shall use language provided by ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

Documentation Options:

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. RECIPIENTs shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes. The RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the deed of right.

2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

d. Real Property Acquisition and Relocation Assistance.

1. Federal Acquisition Policies. See Section 4 of this agreement for requirements specific to Section 319 and SRF funded projects.

2. State Acquisition Policies. When state funds are part of this agreement, the RECIPIENT agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.

3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the RECIPIENT agrees to provide any housing and relocation assistance required.

e. Hazardous Substances.

1. Certification. The RECIPIENT shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:

i. No hazardous substances were found on the site, or

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ii. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site is deemed "clean."

2. Responsibility. Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The RECIPIENT will defend, protect and hold harmless ECOLOGY and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the RECIPIENT is acquiring.

f. Restriction On Conversion Of Real Property And/Or Facilities To Other Uses

The RECIPIENT shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this agreement to uses other than those purposes for which funds were approved without prior approval of ECOLOGY. For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

C. Best Management Practices (BMP) Implementation: If the RECIPIENT installs BMPs that are not approved by ECOLOGY prior to installation, the RECIPIENT assumes the risk that part or all of the reimbursement for that activity may be delayed or ineligible. For more details regarding BMP Implementation, please reference the Water Quality Financial Assistance Funding Guidelines available on ECOLOGY's Water Quality Program funding website.

D. Electronic Fund Transfers: The RECIPIENT must register as a statewide vendor in order to receive payment reimbursement. Washington State's Department of Enterprise Services (DES) issues all payments. DES maintains a central vendor file for Washington State agency use to process vendor payments. The RECIPIENT can complete the registration process online at:

<http://des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. This registration process allows the RECIPIENT to sign up for direct deposit payments, also known as electronic fund transfers (EFT). If the RECIPIENT has questions about the vendor registration process or setting up direct deposit payments contact DES Payee Help Desk at (360) 407-8180 or payeehelpdesk@watech.wa.gov.

E. Equipment Purchase: Equipment purchases over \$5,000 and not included in the scope of work or the Ecology approved construction plans and specifications, must be pre-approved by ECOLOGY's project manager before purchase. All equipment purchases over \$5,000 and not included in a contract for work being completed on the funded project, must also be reported on the Equipment Purchase Report in EAGL.

F. Funding Recognition: The RECIPIENT must inform the public about ECOLOGY or any EPA (see Section 3.B for Section 319 funded or Section 5.E for SRF funded projects) funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY's Financial Manager upon request.

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G. Growth Management Planning: The RECIPIENT certifies by signing this agreement that it is in compliance with the requirements of Chapter 36.70A RCW, "Growth Management Planning by Selected Counties and Cities." If the status of compliance changes, either through RECIPIENT or legislative action, the RECIPIENT shall notify ECOLOGY in writing of this change within 30 days.

H. Interlocal: The RECIPIENT certifies by signing this agreement that all negotiated interlocal agreements necessary for the project are, or shall be, consistent with the terms of this agreement and Chapter 39.34 RCW, "Interlocal Cooperation Act." The RECIPIENT shall submit a copy of each interlocal agreement necessary for the project to ECOLOGY upon request.

I. Lobbying and Litigation: Costs incurred for the purposes of lobbying or litigation are not eligible for funding under this agreement.

J. Post Project Assessment Survey: The RECIPIENT agrees to participate in a brief survey regarding the key project results or water quality project outcomes and the status of long-term environmental results or goals from the project approximately three years after project completion. A representative from ECOLOGY's Water Quality Program may contact the RECIPIENT to request this data. ECOLOGY may also conduct site interviews and inspections, and may otherwise evaluate the project, as part of this assessment.

K. Project Status Evaluation: ECOLOGY may evaluate the status of this project 18 months from the effective date of this agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. If the RECIPIENT fails to make satisfactory progress toward achieving project outcomes, ECOLOGY may change the scope of work, reduce grant funds, or increase oversight measures.

L. Technical Assistance: Technical assistance for agriculture activities provided under the terms of this agreement shall be consistent with the current U.S. Natural Resource Conservation Service ("NRCS") Field Office Technical Guide for Washington State and specific requirements outlined in the Water Quality Funding Guidelines. Technical assistance, proposed practices, or project designs that do not meet these standards may be eligible if approved in writing by ECOLOGY.

SECTION 3: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND CENTENNIAL CLEAN WATER FUNDED PROJECTS BEING USED TO MATCH SECTION 319 FUNDS.

The RECIPIENT must submit the following documents to ECOLOGY before this agreement is signed by ECOLOGY:

1. Federal Funding Accountability and Transparency Act (FFATA) Form, available on the Water Quality Program website.
2. "Section 319 Initial Data Reporting" form in EAGL.

A. Data Reporting: The RECIPIENT must complete the "Section 319 Initial Data Reporting" form in EAGL before this agreement can be signed by Ecology. This form is used to gather general information about the project for EPA.

B. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the RECIPIENT shall provide signage that informs the public that the project is funded by EPA. The signage shall contain the EPA

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logo and follow usage requirements available at <http://www2.epa.gov/stylebook/using-epa-seal-and-logo>. To obtain the appropriate EPA logo or seal graphic file, the RECIPIENT may send a request to their Ecology Financial Manager.

To increase public awareness of projects serving communities where English is not the predominant language, RECIPIENTS are encouraged to provide their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

The RECIPIENT shall use the following paragraph in all reports, documents, and signage developed under this agreement:

“This project has been funded wholly or in part by the United States Environmental Protection Agency under an assistance agreement to the Washington State Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

C. Load Reduction Reporting: The RECIPIENT shall complete the “Section 319 Annual Load Reduction Reporting” form in EAGL by January 15 of each year and at project close-out. ECOLOGY may hold reimbursements until the RECIPIENT has completed the form. This form is used to gather information on best management practices (BMPs) installed and associated pollutant load reductions that were funded as a part of this project.

D. Time Extension: The RECIPIENT may request a one-time extension for up to 12 months. However, the time extension cannot exceed the time limitation established in EPA’s assistance agreement. In the event a time extension is requested and approved by ECOLOGY, the RECIPIENT must complete all eligible work performed under this agreement by the expiration date.

SECTION 4: THE FOLLOWING CONDITIONS APPLY TO SECTION 319 AND STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

A. Accounting Standards: The RECIPIENT shall maintain accurate records and accounts for the project (PROJECT Records) in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), including standards related to the reporting of infrastructure assets or in accordance with the standards in Chapter 43.09.200 RCW “Local Government Accounting – Uniform System of Accounting”.

B. Acquisitions: Section 319 and SRF Equivalency project RECIPIENTS shall comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)-Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

C. Audit Requirements: In accordance with 2 CFR 200.501(a), the RECIPIENT agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year. The RECIPIENT must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse’s Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single

audit submission, go to the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

D. Archaeological Resources and Historic Properties (Section 106): The RECIPIENT shall comply with the additional requirements under section 106 of the National Historic Preservation Act (NHPA, 36 CFR 800).

E. Data Universal Numbering System (DUNS) and Central Contractor Registration (CCR) Requirements: RECIPIENTS shall have a DUNS number. Unless exempted from this requirement under 2 CFR 25.110, the RECIPIENT must ensure that their organization's information in the System for Award Management (SAM), <https://www.sam.gov>, is kept current through project closeout. This requires that the RECIPIENT reviews and updates the information at least annually after the initial registration, and more frequently if information changes.

F. Disadvantaged Business Enterprise (DBE): General Compliance, 40 CFR, Part 33. The RECIPIENT agrees to comply with the requirements of the Environmental Protection Agency's Program for Utilization of Small, Minority, and Women's Business Enterprises (MBE/WBE) 40CFR, Part 33 in procurement under this agreement.

Six Good Faith Efforts, 40 CFR, Part 33, Subpart C. The RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services, and supplies under this agreement. Records documenting compliance with the following six good faith efforts shall be retained:

- 1) Ensure Disadvantaged Business Enterprises are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government RECIPIENTS, this shall include placing Disadvantaged Business Enterprises on solicitation lists and soliciting them whenever they are potential sources.
- 2) Make information on forthcoming opportunities available to Disadvantaged Business Enterprises and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by Disadvantaged Business Enterprises in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of thirty (30) calendar days before the bid or proposal closing date.
- 3) Consider, in the contracting process, whether firms competing for large contracts could subcontract with Disadvantaged Business Enterprises. For Indian Tribal, State, and Local Government RECIPIENTS, this shall include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by Disadvantaged Business Enterprises in the competitive process.
- 4) Encourage contracting with a consortium of Disadvantaged Business Enterprises when a contract is too large for one of these firms to handle individually.
- 5) Use services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- 6) If the prime contractor awards subcontracts, require the prime contractor to take the five good faith efforts steps in paragraphs 1 through 5 above.

The RECIPIENT agrees to submit ECOLOGY's Contractor Participation Report Form D with each payment request.

Contract Administration Provisions, 40 CFR, Section 33.302. The RECIPIENT agrees to comply with the contract

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administration provisions of 40 CFR, Section 33.302.

Non-discrimination Provision. The RECIPIENT shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The RECIPIENT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the RECIPIENT to carry out these requirements is a material breach of this agreement which may result in the termination of this contract or other legally available remedies.

This does not preclude the RECIPIENT from enacting broader nondiscrimination protections.

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including but not limited to, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Chapter 49.60 RCW, Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq, the Americans with Disabilities Act (ADA).

In the event of the RECIPIENT's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation, or policy, this agreement may be rescinded, canceled, or terminated in whole or in part and the RECIPIENT may be declared ineligible for further funding from ECOLOGY. The RECIPIENT shall, however, be given a reasonable time in which to cure this noncompliance.

The RECIPIENT shall include the following terms and conditions in contracts with all contractors, subcontractors, engineers, vendors, and any other entity for work or services pertaining to this agreement.

"The Contractor will not discriminate on the basis of race, color, national origin or sex in the performance of this Contract. The Contractor will carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial agreements. Failure by the Contractor to carry out these requirements is a material breach of this Contract which may result in termination of this Contract or other legally available remedies."

Bidder List, 40 CFR, Section 33.501(b) and (c). The RECIPIENT agrees to create and maintain a bidders list. The bidders list shall include the following information for all firms that bid or quote on prime contracts, or bid or quote subcontracts, including both MBE/WBEs and non-MBE/WBEs.

1. Entity's name with point of contact
2. Entity's mailing address, telephone number, and e-mail address
3. The procurement on which the entity bid or quoted, and when
4. Entity's status as an MBE/WBE or non-MBE/WBE

G. Electronic and information Technology (EIT) Accessibility: RECIPIENTS shall ensure that loan funds provided under this agreement for costs in the development or purchase of EIT systems or products provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology as per Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7. Systems or products funded under this agreement must be designed to meet the diverse needs of users without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

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H. Hotel-Motel Fire Safety Act: The RECIPIENT shall ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (15 USC 2225a, PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act. Pursuant to 15 USC 2225a.

I. Trafficking In Persons: The RECIPIENT and RECIPIENT employees that are private entities shall not engage in forms of trafficking in persons during the period of time this agreement is effective. This includes, but is not limited to, the procurement of a commercial sex act or forced labor. The RECIPIENT shall notify ECOLOGY immediately of any information received from any source alleging a violation under this provision.

SECTION 5: THE FOLLOWING CONDITIONS APPLY TO STATE REVOLVING FUND (SRF) LOAN FUNDED PROJECTS ONLY.

The RECIPIENT must submit the following documents/forms to ECOLOGY before this agreement is signed by ECOLOGY:

1. Financial Capability Assessment Documentation
2. Opinion of RECIPIENT's Legal Council
3. Authorizing Ordinance or Resolution
4. Federal Funding Accountability and Transparency Act (FFATA) Form
5. CWSRF Federal Reporting Information form available in EAGL
6. Fiscal Sustainability Plan Certification Form (only required if the project includes construction of a wastewater or stormwater facility construction)
7. Cost and Effectiveness Analysis Certification Form

A. Alteration and Eligibility of Project: During the term of this agreement, the RECIPIENT (1) shall not materially alter the design or structural character of the project without the prior written approval of ECOLOGY and (2) shall take no action which would adversely affect the eligibility of the project as defined by applicable funding program rules and state statutes, or which would cause a violation of any covenant, condition, or provision herein.

B. American Iron and Steel (Buy American): This loan provision applies to projects for the construction, alteration, maintenance, or repair of a "treatment works" as defined in the Federal Water Pollution Control Act (33 USC 1381 et seq.) The RECIPIENT shall ensure that all iron and steel products used in the project are produced in the United States. Iron and Steel products means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. The RECIPIENT may request waiver from this requirement from the Administrator of the Environmental Protection Agency. The RECIPIENT must coordinate all waiver requests through ECOLOGY. This provision does not apply if the engineering plans and specifications for the project were approved by ECOLOGY prior to January 17, 2014. ECOLOGY reserves the right to request documentation of RECIPIENT'S compliance with this provision.

C. Authority of RECIPIENT: This agreement is authorized by the Constitution and laws of the state of Washington, including the RECIPIENT's authority, and by the RECIPIENT pursuant to the authorizing ordinance or resolution. The RECIPIENT shall submit a copy of the authorizing ordinance or resolution to the ECOLOGY Financial Manager

before this agreement shall be signed by ECOLOGY.

D. Equivalency Projects: (For designated equivalency projects only)

1. The RECIPIENT must procure architectural and engineering services in accordance with the federal requirements in Chapter 11 of Title 40, U.S.C. (see www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitleI-chap11.pdf).

E. Fiscal Sustainability Plan Certification: The RECIPIENT shall submit a completed Fiscal Sustainability Plan Certification before this agreement is signed by ECOLOGY. The Fiscal Sustainability Plan Certification is available from the ECOLOGY Financial Manager or on the Water Quality Program website.

F. Funding Recognition and Outreach: In addition to Section 2.F of these Terms and Conditions, the

RECIPIENT agrees to comply with the EPA SRF Signage Guidance in order to enhance public awareness of EPA assistance agreements nationwide. The signage guidance can be found at: <http://www.ecy.wa.gov/programs/wq/funding/FundPrgms/CWSRF/SignageGuidanceJune2015.pdf>.

G. Insurance: The RECIPIENT shall at all times carry fire and extended insurance coverage, public liability, and property damage, and such other forms of insurance with responsible insurers and policies payable to the RECIPIENT on such of the buildings, equipment, works, plants, facilities, and properties of the Utility as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately-owned utilities engaged in the operation of like systems, or it shall self-insure or participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the RECIPIENT, to protect it against loss.

H. Litigation Authority: No litigation is now pending, or to the RECIPIENT's knowledge, threatened, seeking to restrain, or enjoin:

- (i) the execution of this agreement; or
- (ii) the fixing or collection of the revenues, rates, and charges or the formation of the ULID and the levy and collection of ULID Assessments therein pledged to pay the principal of and interest on the loan (for revenue secured lien obligations); or
- (iii) the levy and collection of the taxes pledged to pay the principal of and interest on the loan (for general obligation-secured loans and general obligation payable from special-assessment-secured loans); or
- (iv) in any manner questioning the proceedings and authority under which the agreement, the loan, or the project are authorized. Neither the corporate existence, or boundaries of the RECIPIENT nor the title of its present officers to their respective offices is being contested. No authority or proceeding for the execution of this agreement has been repealed, revoked, or rescinded.

I. Loan Interest Rate and Terms: This loan agreement shall remain in effect until the date of final repayment of the loan, unless terminated earlier according to the provisions herein.

When the Project Completion Date has occurred, ECOLOGY and the RECIPIENT shall execute an amendment to this

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loan agreement which details the final loan amount (Final Loan Amount), and ECOLOGY shall prepare a final loan repayment schedule. The Final Loan Amount shall be the combined total of actual disbursements made on the loan and all accrued interest to the computation date.

The Estimated Loan Amount and the Final Loan Amount (in either case, as applicable, a "Loan Amount") shall bear interest based on the interest rate identified in this agreement as the "Effective Interest Rate," per annum, calculated on the basis of a 365 day year. Interest on the Estimated Loan Amount shall accrue from and be compounded monthly based on the date that each payment is mailed to the RECIPIENT. The Final Loan Amount shall be repaid in equal installments, semiannually, over the term of this loan "Loan Term" as outlined in this agreement.

J. Loan Repayment:

Sources of Loan Repayment

1. Nature of RECIPIENT's Obligation. The obligation of the RECIPIENT to repay the loan from the sources identified below and to perform and observe all other agreements and obligations on its part, contained herein, shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, or abatement of any kind. To secure the repayment of the loan from ECOLOGY, the RECIPIENT agrees to comply with all of the covenants, agreements, and attachments contained herein.

2. For General Obligation. This loan is a General Obligation Debt of the RECIPIENT.

3. For General Obligation Payable from Special Assessments. This loan is a General Obligation Debt of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.

4. For Revenue-Secured: Lien Position. This loan is a Revenue-Secured Debt of the RECIPIENT's Utility. This loan shall constitute a lien and charge upon the Net Revenue junior and subordinate to the lien and charge upon such Net Revenue of any Senior Lien Obligations.

In addition, if this loan is also secured by Utility Local Improvement Districts (ULID) Assessments, this loan shall constitute a lien upon ULID Assessments in the ULID prior and superior to any other charges whatsoever.

5. Other Sources of Repayment. The RECIPIENT may repay any portion of the loan from any funds legally available to it.

6. Defeasance of the Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT shall not be entitled to, and shall not affect, an economic Defeasance of the loan. The RECIPIENT shall not advance refund the loan.

If the RECIPIENT defeases or advance refunds the loan, it shall be required to use the proceeds thereof immediately upon their receipt, together with other available RECIPIENT funds, to repay both of the following:

(i) The Loan Amount with interest

(ii) Any other obligations of the RECIPIENT to ECOLOGY under this agreement, unless in its sole discretion ECOLOGY finds that repayment from those additional sources would not be in the public interest.

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Failure to repay the Loan Amount plus interest within the time specified in ECOLOGY's notice to make such repayment shall incur Late Charges and shall be treated as a Loan Default.

7. Refinancing or Early Repayment of the Project. So long as ECOLOGY shall hold this loan, the RECIPIENT shall give ECOLOGY thirty days written notice if the RECIPIENT intends to refinance or make early repayment of the loan.

Method and Conditions on Repayments

1. Semiannual Payments. Notwithstanding any other provision of this agreement, the first semiannual payment of principal and interest on this loan shall be due and payable no later than one year after the project completion date or initiation of operation date, whichever comes first.

Thereafter, equal payments shall be due every six months.

If the due date for any semiannual payment falls on a Saturday, Sunday, or designated holiday for Washington State agencies, the payment shall be due on the next business day for Washington State agencies.

Payments shall be mailed to:

Department of Ecology
Cashiering Unit
P.O. Box 47611
Olympia WA 98504-7611

In lieu of mailing payments, electronic fund transfers can be arranged by working with ECOLOGY's Financial Manager.

No change to the amount of the semiannual principal and interest payments shall be made without a mutually signed amendment to this agreement. The RECIPIENT shall continue to make semiannual payments based on this agreement until the amendment is effective, at which time the RECIPIENT's payments shall be made pursuant to the amended agreement.

2. Late Charges. If any amount of the Final Loan Amount or any other amount owed to ECOLOGY pursuant to this agreement remains unpaid after it becomes due and payable, ECOLOGY may assess a late charge. The late charge shall be one percent per month on the past due amount starting on the date the debt becomes past due and until it is paid in full.

3. Repayment Limitations. Repayment of the loan is subject to the following additional limitations, among others: those on defeasance, refinancing and advance refunding, termination, and default and recovery of payments.

4. Prepayment of Loan. So long as ECOLOGY shall hold this loan, the RECIPIENT may prepay the entire unpaid principal balance of and accrued interest on the loan or any portion of the remaining unpaid principal balance of the Loan Amount. Any prepayments on the loan shall be applied first to any accrued interest due and then to the outstanding principal balance of the Loan Amount. If the RECIPIENT elects to prepay the entire remaining unpaid balance and accrued interest, the RECIPIENT shall first contact ECOLOGY's Revenue/Receivable Manager of the

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Fiscal Office.

K. Loan Security

Due Regard: For loans secured with a Revenue Obligation: The RECIPIENT shall exercise due regard for Maintenance and Operation Expense and the debt service requirements of the Senior Lien Obligations and any other outstanding obligations pledging the Gross Revenue of the Utility, and it has not obligated itself to set aside and pay into the loan Fund a greater amount of the Gross Revenue of the Utility than, in its judgment, shall be available over and above such Maintenance and Operation Expense and those debt service requirements.

Where collecting adequate gross utility revenue requires connecting additional users, the RECIPIENT shall require the sewer system connections necessary to meet debt obligations and expected operation and maintenance expenses.

Levy and Collection of Taxes (if used to secure the repayment of the loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of its electors on all of the taxable property within the boundaries of the RECIPIENT in an amount sufficient, together with other money legally available and to be used therefore, to pay when due the principal of and interest on the loan, and the full faith, credit and resources of the RECIPIENT are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Not an Excess Indebtedness: For loans secured with a general obligation pledge or a general obligation pledge on special assessments: The RECIPIENT agrees that this agreement and the loan to be made do not create an indebtedness of the RECIPIENT in excess of any constitutional or statutory limitations.

Pledge of Net Revenue and ULID Assessments in the ULID (if used to secure the repayment of this loan): For so long as the loan is outstanding, the RECIPIENT irrevocably pledges the Net Revenue of the Utility, including applicable ULID Assessments in the ULID, to pay when due the principal of and interest on the loan.

Utility Local Improvement District (ULID) Assessment Collection (if used to secure the repayment of the loan): All ULID Assessments in the ULID shall be paid into the Loan Fund and used to pay the principal of and interest on the loan.

L. Maintenance and Operation of a Funded Utility: The RECIPIENT shall, at all times, maintain and keep the funded Utility in good repair, working order, and condition.

M. Opinion of RECIPIENT's Legal Counsel: The RECIPIENT must submit an "Opinion of Legal Counsel to the RECIPIENT" to ECOLOGY before this agreement will be signed. ECOLOGY will provide the form.

N. Prevailing Wage (Davis-Bacon Act): The RECIPIENT agrees, by signing this agreement, to comply with the Davis-Bacon Act prevailing wage requirements. This applies to the construction, alteration, and repair of treatment works carried out, in whole or in part, with assistance made available by the State Revolving Fund as authorized by Section 513, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1372). Laborers and mechanics employed by contractors and subcontractors shall be paid wages not less often than once a week and at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

The RECIPIENT shall obtain the wage determination for the area in which the project is located prior to issuing

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requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation). These wage determinations shall be incorporated into solicitations and any subsequent contracts. The RECIPIENT shall ensure that the required EPA contract language regarding Davis-Bacon Wages is in all contracts and sub contracts in excess of \$2,000. The RECIPIENT shall maintain records sufficient to document compliance with the Davis-Bacon Act, and make such records available for review upon request.

The RECIPIENT also agrees, by signing this agreement, to comply with State Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable. Compliance may include the determination whether the project involves “public work” and inclusion of the applicable prevailing wage rates in the bid specifications and contracts. The RECIPIENT agrees to maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and make such records available for review upon request.

O. Progress Reports: RECIPIENTS funded with State Revolving Fund Loan or Forgivable Principal shall include the following verification statement in the “General Comments” text box of each progress report.

“We verify that we are in compliance with all the requirements as outlined in our funding agreement(s) with the Department of Ecology. This includes but is not limited to:

- The Davis-Bacon Act, 29 CFR (If applicable)
- Washington State Prevailing Wage Rate, Chapter 39.12 RCW (Pertaining to all recipients)
- The Disadvantaged Business Enterprise (DBE), 40 CFR, Part 33”

P. Representations and Warranties: The RECIPIENT represents and warrants to ECOLOGY as follows:

Application: Material Information. All information and materials submitted by the RECIPIENT to ECOLOGY in connection with its loan application were, when made, and are, as of the date the RECIPIENT signs this agreement, true and correct. There is no material adverse information relating to the RECIPIENT, the project, the loan, or this agreement known to the RECIPIENT, which has not been disclosed in writing to ECOLOGY.

Existence; Authority. It is a duly formed and legally existing municipal corporation or political subdivision of the state of Washington or a federally recognized Indian Tribe. It has full corporate power and authority to execute, deliver, and perform all of its obligations under this agreement and to undertake the project identified herein.

Certification. Each payment request shall constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this loan agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the project or to repay the principal of or interest on the loan, have occurred since the date of this loan agreement. Any changes in the RECIPIENT’s financial condition shall be disclosed in writing to ECOLOGY by the RECIPIENT in its request for payment.

Q. Sale or Disposition of Funded Utility: The RECIPIENT shall not sell, transfer, or otherwise dispose of any of the works, plant, properties, facilities, or other part of the funded Utility or any real or personal property comprising a part of the funded Utility unless:

I. The facilities or property transferred are not material to the operation of the funded Utility, or have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the funded Utility or are no longer necessary, material, or useful to the operation of the funded Utility; or

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2. The aggregate depreciated cost value of the facilities or property being transferred in any fiscal year comprises no more than three percent of the total assets of the funded Utility; or
3. The RECIPIENT receives from the transferee an amount equal to an amount which will be in the same proportion to the net amount of Senior Lien Obligations and this LOAN then outstanding (defined as the total amount outstanding less the amount of cash and investments in the bond and loan funds securing such debt) as the Gross Revenue of the funded Utility from the portion of the funded Utility sold or disposed of for the preceding year bears to the total Gross Revenue for that period.
4. Expressed written agreement by the DEPARTMENT.

The proceeds of any transfer under this paragraph must be used (1) to redeem promptly, or irrevocably set aside for the redemption of, Senior Lien Obligations and to redeem promptly the loan, and (2) to provide for part of the cost of additions to and betterments and extensions of the Utility.

R. Sewer-Use Ordinance or Resolution for Funded Wastewater Facility Projects: If not already in existence, the RECIPIENT shall adopt and shall enforce a sewer-use ordinance or resolution. Such ordinance or resolution shall be submitted to ECOLOGY upon request.

The sewer use ordinance must include provisions to:

- 1) Prohibit the introduction of toxic or hazardous wastes into the RECIPIENT's sewer system.
- 2) Prohibit inflow of stormwater into separated sewer systems.
- 3) Require that new sewers and connections be properly designed and constructed.

S. Termination and Default:

Termination and Default Events

1. For Insufficient ECOLOGY or RECIPIENT Funds. ECOLOGY may terminate this loan agreement for insufficient ECOLOGY or RECIPIENT funds.
2. For Failure to Commence Work. ECOLOGY may terminate this loan agreement for failure of the RECIPIENT to commence project work.
3. Past Due Payments. The RECIPIENT shall be in default of its obligations under this loan agreement when any loan repayment becomes 60 days past due.
4. Other Cause. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance in full by the RECIPIENT of all of its obligations under this loan agreement. The RECIPIENT shall be in default of its obligations under this loan agreement if, in the opinion of ECOLOGY, the RECIPIENT has unjustifiably failed to perform any obligation required of it by this loan agreement.

Procedures for Termination. If this loan agreement is terminated prior to project completion, ECOLOGY shall provide

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to the RECIPIENT a written notice of termination at least five working days prior to the effective date of termination (the "Termination Date"). The written notice of termination by the ECOLOGY shall specify the Termination Date and, when applicable, the date by which the RECIPIENT must repay any outstanding balance of the loan and all accrued interest (the "Termination Payment Date").

Termination and Default Remedies

No Further Payments. On and after the Termination Date, or in the event of a default event, ECOLOGY may, at its sole discretion, withdraw the loan and make no further payments under this agreement.

Repayment Demand. In response to an ECOLOGY initiated termination event, or in response to a loan default event, ECOLOGY may at its sole discretion demand that the RECIPIENT repay the outstanding balance of the Loan Amount and all accrued interest.

Interest after Repayment Demand. From the time that ECOLOGY demands repayment of funds, amounts owed by the RECIPIENT to ECOLOGY shall accrue additional interest at the rate of one percent per month, or fraction thereof.

Accelerate Repayments. In the event of a default, ECOLOGY may, in its sole discretion, declare the principal of and interest on the loan immediately due and payable, subject to the prior lien and charge of any outstanding Senior Lien Obligation upon the Net Revenue. That is, the loan is not subject to acceleration so long as any Senior Lien Obligations are outstanding. Repayments not made immediately upon such acceleration will incur Late Charges.

Late Charges. All amounts due to ECOLOGY and not paid by the RECIPIENT by the Termination Payment Date or after acceleration following a default event, as applicable, shall incur late charges.

Intercept State Funds. In the event of a default event and in accordance with Chapter 90.50A.060 RCW, "Defaults," any state funds otherwise due to the RECIPIENT may, at ECOLOGY's sole discretion, be withheld and applied to the repayment of the loan.

Property to ECOLOGY. In the event of a default event and at the option of ECOLOGY, any personal property (equipment) acquired under this agreement may, in ECOLOGY's sole discretion, become ECOLOGY's property. In that circumstance, ECOLOGY shall reduce the RECIPIENT's liability to repay money by an amount reflecting the fair value of such property.

Documents and Materials. If this agreement is terminated, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT shall, at the option of ECOLOGY, become ECOLOGY property. The RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Collection and Enforcement Actions. In the event of a default event, the state of Washington reserves the right to take any actions it deems necessary to collect the amounts due, or to become due, or to enforce the performance and observance of any obligation by the RECIPIENT, under this agreement.

Fees and Expenses. In any action to enforce the provisions of this agreement, reasonable fees and expenses of attorneys and other reasonable expenses (including, without limitation, the reasonably allocated costs of legal staff) shall be awarded to the prevailing party as that term is defined in Chapter 4.84.330 RCW.

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Damages. Notwithstanding ECOLOGY's exercise of any or all of the termination or default remedies provided in this agreement, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and/or the state of Washington because of any breach of this agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

T. User-Charge System for Funded Utilities: The RECIPIENT certifies that it has the legal authority to establish and implement a user-charge system and shall adopt a system of user-charges to assure that each user of the funded utility shall pay its proportionate share of the cost of operation and maintenance, including replacement during the design life of the project. The user-charge system will include provisions for a connection charge.

In addition, the RECIPIENT shall regularly evaluate the user-charge system, at least annually, to ensure the system provides adequate revenues necessary to operate and maintain the funded utility, to establish reserves to pay for replacement, and to repay the loan.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for

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reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsr.gov <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsr.gov <http://www.fsr.gov>.

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Agreement No: WQC-2018-MaryPW-00094
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GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS AS OF LAST UPDATED 1/22/2018 VERSION

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.
RECIPIENT shall:
 - Keep the IDP at the project site.
 - Make the IDP readily available to anyone working at the project site.
 - Discuss the IDP with staff and contractors working at the project site.
 - Implement the IDP when cultural resources or human remains are found at the project site.
- c) If any archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:

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- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@watech.wa.gov.
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

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

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS

- a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact

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the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
 - Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
 - Submit the QAPP to ECOLOGY for review and approval before the start of the work.
- b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.
- c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified

minority and women's businesses.

d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGYY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to

authorize others to use the same for federal, state, or local government purposes.

- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination. All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of

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this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder. RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work. All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT. RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement. RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds. Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, ,
<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

27. TERMINATION

- a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the

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RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the recipient/contractor through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the recipient/contractor. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work

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completed on such documents and other materials.

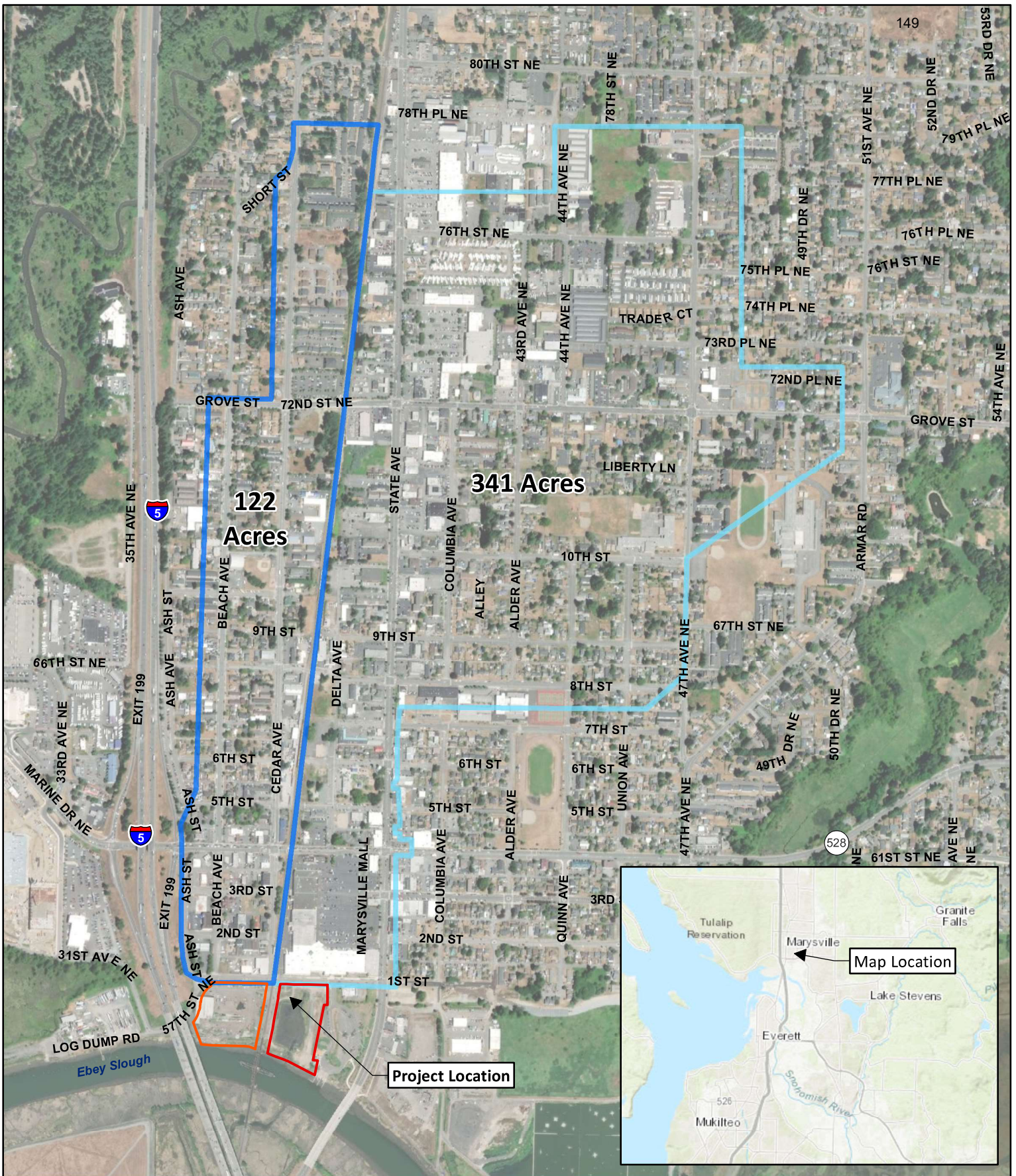
Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.



Source: ESRI, City of Marysville, Parametrix

Parametrix

- Geddes Site
- Welco Site
- East Basin
- West Basin

Figure 1
Contributing Area Basin Map




Index #7

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8th 2021

AGENDA ITEM:	
Professional Services Agreement with BHC Consultants for WWTP Near Term Improvement Design	
PREPARED BY:	DIRECTOR APPROVAL:
Matthew Eyer, Storm/Sewer Supervisor	
DEPARTMENT:	
Public Works	
ATTACHMENTS:	
Professional Services Agreement	
BUDGET CODE:	AMOUNT:
40230594 563000 S2101	\$257,055.00
SUMMARY:	
<p>The WWTP Near Term Improvements will address increased quantities of daphnia and large algal blooms that occur throughout the lagoon system during the warmer months. Both of these factors result in an overabundance of suspended fine particles in the effluent discharge. This, coupled with existing trash and debris from the lagoon, has resulted in poor performance of the sand filter tertiary treatment system and occasional exceedances of the city's wastewater discharge permit limits for total suspended solids. These improvements will significantly reduce the amount of fine particles and trash entering the sand filter system. This option was selected through the design analysis performed by BHC in the <i>2020 WWTP Improvement Plan</i>.</p> <p>The City advertised a Request for Proposals on December 14, 2020 requesting that firms submit written proposals stating their qualifications to provide consultant services related to this project. The City received one proposal from BHC Consultants.</p> <p>This Professional Services Agreement (PSA) is for the design and initial bid support for the Wastewater Treatment Plant Near Term Improvement project. These improvements will consist of a band screen and straining system prior to the sand filter system in order to remove trash, fine algal blooms and daphnia from the wastewater effluent. The design and construction of this project is part of the approved 2021-2022 budget. Construction is anticipated in 2022.</p>	

<p>RECOMMENDED ACTION: Staff recommends that Council authorize the Mayor to sign and execute the attached Professional Services Agreement with BHC Consultants for the Design of the WWTP Near Term Improvement project.</p> <p>RECOMMENDED MOTION: I move to authorize the Mayor to sign and execute the agreement.</p>
--

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF MARYSVILLE
AND BHC CONSULTANTS, LLC**

THIS AGREEMENT (“Agreement”) is made and entered into as of the date of the last signature below, by and between the City of Marysville, a Washington State municipal corporation (“City”), and BHC Consultants, LLC, a limited liability corporation, licensed/incorporated in Washington, organized under the laws of the state of Washington, located and doing business at 1601 Fith Avenue Suite 500, Seattle, WA 98101 (“Consultant”).

In consideration of the terms, conditions, covenants, and performances contained herein, the parties hereto agree as follows:

- 1. SCOPE OF SERVICES.** The Consultant shall provide the work and services described in the attached **EXHIBIT A**, incorporated herein by this reference (the “Services”). All services and materials necessary to accomplish the tasks outlined in the Scope of Services shall be provided by the Consultant unless noted otherwise in the Scope of Services or this Agreement. All such services shall be provided in accordance with the standards of the Consultant’s profession.
- 2. TERM.** The term of this Agreement shall commence on Marth 14th 2021 and shall terminate at midnight on December 31 2022. The parties may extend the term of this Agreement by executing a written supplemental amendment.
- 3. COMPENSATION.** The Consultant shall be paid by the City for Services rendered under this Agreement as described in **EXHIBIT A** and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed **Two hundred fifty seven thousand fifty five dollars and zero cents (\$257,055.00)** within the term of the Agreement, including extensions, without the written agreement of the Consultant and the City. Such payment shall be full compensation for the Services and for all labor, materials, supplies, equipment, incidentals, and any other expenses necessary for completion.

The Consultant shall submit a monthly invoice to the City for Services performed in the previous calendar month in a format acceptable to the City. The Consultant shall maintain time and expense records and provide them to the City upon request.

The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

4. CONSULTANT’S OBLIGATIONS.

4.1 MINOR CHANGES IN SCOPE. The Consultant agrees to accept minor changes, amendments, or revisions to the scope of the Services, as may be required by the City, when such

changes, amendments, or revisions will not have any impact on the cost of the Services or the proposed delivery schedule.

4.2 ADDITIONAL WORK. The City may desire to have the Consultant perform additional work or services which are not identified in the scope of the Services. If the parties agree to the performance of additional work or services, the parties will execute a written supplemental amendment detailing the additional work or services and compensation therefore. In no event will the Consultant be compensated for preparing proposals for additional work or services. In no event shall the Consultant begin work contemplated under a supplemental amendment until the supplemental amendment is fully executed by the parties.

4.3 WORK PRODUCT AND DOCUMENTS. The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the Services shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the Services, the work product, and all documents produced under this Agreement, even though the Services have been accepted by the City.

In the event that the Consultant defaults on this Agreement or in the event that this Agreement is terminated prior to the completion of the Services or the time for completion, all work product and all documents and other materials produced under this Agreement, along with a summary of work as of the date of default or termination, shall become the property of the City. The summary of Services provided shall be prepared at no additional cost to the City. Upon request, the Consultant shall tender the work product, all documents, and the summary to the City within five (5) business days. Tender of said work product shall be a prerequisite to final payment under this Agreement.

The Consultant will not be held liable for reuse of work product or documents produced under this Agreement or modification of the work product or documents for any purpose other than those identified in this Agreement without the written authorization of the Consultant.

4.4 PUBLIC RECORDS ACT. Consultant acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "PRA"). All records owned, used, or retained by the City are public records subject to disclosure unless exempt under the PRA, whether or not the records are in the possession or control of the City or Consultant. All exemptions to the PRA are narrowly construed.

a. **Confidential Information.** Any records provided to the City by the Consultant which contain information that the Consultant in good faith believes is not subject to disclosure under the PRA shall be marked "Confidential" and shall identify the specific information that the Consultant in good faith believes is not subject to disclosure under the PRA and a citation to the statutory basis for non-disclosure.

b. **Responding to Public Records Requests.** The City shall exercise its sole legal judgment in responding to public records requests.

- (1) The City may rely upon the lack of notification from the Consultant in releasing any records that are not marked “Confidential.”
- (2) If records identified as “Confidential” by the Consultant are responsive to a PRA request, the City will seek to provide notice to Consultant at least ten (10) business days before the date on which the City anticipates releasing records. The City is under no obligation to assert any applicable exemption on behalf of the Consultant. The Consultant may seek, at its sole cost, an injunction preventing the release of information which it believes is protected. In no event will the City have any liability to Consultant for any failure of the City to provide notice prior to release.
- (3) If the City, in its sole legal judgment, believes that the Consultant possesses records that (1) are responsive to a PRA request and (2) were used by the City, the City will request the records from the Consultant. The Consultant will, within ten (10) business days:
 - i. Provide the records to the City in the manner requested by the City;
 - ii. Obtain a court injunction, in a lawsuit involving the requester, covering all, or any confidential portion of, the records and provide any records not subject to the court injunction; or
 - iii. Provide an affidavit, in a form acceptable to the City Attorney, specifying that the Consultant has made a diligent search and did not locate any requested documents.

c. **Indemnification.** In addition to its other indemnification and defense obligations under this Agreement, the Consultant shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorneys fees and litigation expenses), suits, judgments, or damages (collectively “Damages”) arising from or relating to any request for records related to this Agreement, to the extent such Damages are caused by action or inaction of the Consultant. This indemnification and defense obligation shall survive the expiration or termination of this Agreement.

4.5 MAINTENANCE/INSPECTION OF RECORDS. The Consultant shall maintain all books, records, documents, and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit.

Representatives of the City and/or the Washington State Auditor may copy such books, accounts, and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

4.6 INDEMNITY.

a. **Indemnification and Hold Harmless.** The Consultant shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, arising out of or resulting from the acts, errors, or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant’s liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant’s negligence.

c. The provisions of this Section 4.6 shall survive the expiration or termination of this Agreement.

d. The Consultant hereby knowingly, intentionally, and voluntarily waives the immunity of the Industrial Insurance Act, Title 51 RCW, solely for the purposes of the indemnity contained in subpart “a” of this Section 4.6. This waiver has been mutually negotiated by the parties.

_____ (City Initials) RD (Contractor Initials)

4.7 INSURANCE.

a. **Insurance Term.** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Services hereunder by the Consultant, its agents, representatives, or employees.

b. **No Limitation.** Consultant’s maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City’s recourse to any remedy available at law or in equity.

c. **Minimum Scope of Insurance.** Consultant shall obtain insurance of the types and coverage described below:

- (1) Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
- (2) Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the Services performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.
- (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- (4) Professional Liability insurance appropriate to the Consultant's profession.

d. **Minimum Amounts of Insurance.** Consultant shall maintain the following insurance limits:

- (1) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- (2) Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
- (3) Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

e. **Other Insurance Provision.** The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain 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 Consultant's insurance and shall not contribute with it.

f. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

g. **Verification of Coverage.** The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the Services.

h. **Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation within two business days of the Consultant's receipt of such notice.

i. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

j. **Insurance to be Occurrence Basis.** Unless approved by the City all insurance policies shall be written on an "Occurrence" policy as opposed to a "Claims-made" policy. The City may require an extended reporting endorsement on any approved "Claims-made" policy. Professional liability insurance may be written on a "Claims-made" basis if it is maintained for a period of three (3) years following completion of the services.

k. **City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

4.8 LEGAL RELATIONS. The Consultant shall comply with all federal, state, and local laws, regulations, and ordinances applicable to the Services to be performed under this Agreement. The Consultant represents that it and all employees assigned to perform any of the Services under this Agreement are in full compliance with the statutes of the State of Washington governing the Services and that all personnel to be assigned to the Services are fully qualified and properly licensed to perform the work to which they will be assigned.

4.9 INDEPENDENT CONTRACTOR.

a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants, and agrees that the Consultant's status as an independent contractor in the performance of the Services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the Services required under this Agreement. The Consultant shall not make

a claim of City employment and shall not claim any related employment benefits, social security, and/or retirement benefits.

b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.

c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work to the Services that the Consultant performs under this Agreement.

d. Prior to commencement of Services, the Consultant shall obtain a business license from the City.

4.10 EMPLOYMENT.

a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employee of the Consultant.

b. Any and all employees of the Consultant, while performing any Services under this Agreement, shall be considered employees of the Consultant only and not of the City. The Consultant shall be solely liable for: (1) any and all claims that may or might arise under the Workman’s Compensation Act, Title 51 RCW, on behalf of any said employees while performing any Services under this Agreement, and (2) any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while performing any Services under this Agreement.

c. The Consultant represents, unless otherwise indicated below, that all employees of the Consultant that will perform any Services under this Agreement have never been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please use initials to indicate No or Yes below.)*

 X No, employees performing the Services have never been retired from a Washington state retirement system.

 Yes, employees performing the Services have been retired from a Washington state retirement system.

In the event the Consultant checks “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, the Consultant hereby agrees to save, indemnify, defend and hold the City harmless from and against all expenses and costs, including reasonable attorney fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for all reimbursement required to the Washington State retirement system. In the event the Consultant checks “yes” and affirms that an employee providing work has ever retired from a Washington State retirement system, every said employee shall be identified by the Consultant and such retirees shall provide the City with all information required by the City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

4.11 NONASSIGNABLE. Except as provided in **EXHIBIT B**, the Services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

4.12 SUBCONTRACTORS AND SUBCONSULTANTS.

a. The Consultant is responsible for all work or services performed by subcontractors or subconsultants pursuant to the terms of this Agreement.

b. The Consultant must verify that any subcontractors or subconsultants the Consultant directly hires meet the responsibility criteria for the Services. Verification that a subcontractor or subconsultant has proper license and bonding, if required by statute, must be included in the verification process. If the parties anticipate the use of subcontractors or subconsultants, the subcontractors or subconsultants are set forth in **EXHIBIT B**.

c. The Consultant may not substitute or add subcontractors or subconsultants without the written approval of the City.

d. All subcontractors or subconsultants shall have the same insurance coverage and limits as set forth in this Agreement and the Consultant shall provide verification of said insurance coverage.

4.13 CONFLICTS OF INTEREST. The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant’s client base and shall obtain written permission from the City prior to providing services to third parties when a conflict or potential conflict of interest exists. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

4.14 CITY CONFIDENCES. The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate, or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or the Services provided to the City.

4.15 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against any client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, sexual orientation, age, or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training; or rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth its nondiscrimination obligations. The Consultant understands and agrees that if it violates this nondiscrimination provision, this Agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

4.16 UNFAIR EMPLOYMENT PRACTICES. During the performance of this Agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

5. CITY APPROVAL REQUIRED. Notwithstanding the Consultant's status as an independent contractor, the Services performed pursuant to this Agreement must meet the approval of the City, which shall not be unreasonably withheld if the Services have been completed in compliance with the Scope of Services and City requirements.

6. GENERAL TERMS.

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

Notices to the City shall be sent to the following address:

CITY OF MARYSVILLE

Matthew Eyer

80Columbia Ave

Marysville WA 98270

Notices to the Consultant shall be sent to the following address:

BHC CONSULTANT

Tom Giese

950 Pacific Ave, Suite 905

Tacoma, Washington 98402

6.2 TERMINATION. The City may terminate this Agreement in whole or in part at any time by sending written notice to the Consultant. As per Section 6.1, the Consultant is deemed to have received the termination notice three (3) calendar days after deposit of the termination notice in the U.S. mail with proper postage and address. The termination notice is deemed effective seven (7) calendar days after it is deemed received by the Consultant.

If this Agreement is terminated by the City for its convenience, the City shall pay the Consultant for satisfactory Services performed through the date on which the termination is deemed effective in accordance with payment provisions of Section 3, unless otherwise specified in the termination notice. If the termination notice provides that the Consultant will not be compensated for Services performed after the termination notice is received, the City will have the discretion to reject payment for any Services performed after the date the termination notice is deemed received.

6.3 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.

6.4 EXTENT OF AGREEMENT/MODIFICATION. This Agreement, together with exhibits, attachments, and addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by a written supplemental amendment properly signed by both parties.

6.5 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 parts, terms, or 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 part, term, or provision held to be invalid.

b. If any part, term, or provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that part, term, or provision shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

6.6 NONWAIVER. A waiver by either party of a breach by the other party of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay, or failure of either party to insist upon strict performance of any agreement, covenant, or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition, or right.

6.7 FAIR MEANING. The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

6.8 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

6.9 VENUE. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Snohomish County, Washington.

6.10 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

6.11 AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT. The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth herein.

DATED this _____ day of _____, 20_____.

CITY OF MARYSVILLE

By _____
Jon Nehring, Mayor

DATED this 19th day of February, 2021.

CONSULTANT

By Ronald A. Dorn
Ronald A. Dorn
Its: President

ATTEST/AUTHENTICATED:

_____, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

EXHIBIT A
Scope of Services

EXHIBIT A

City of Marysville WWTP Near Term Tertiary Treatment Improvement Project Scope of Work 2/9/2021

Statement of Understanding

The City of Marysville's (City's) wastewater treatment plant (WWTP) uses sand filtration to remove remaining solids from lagoon effluent prior to disinfection and discharge to Port Gardner Bay via the marine outfall shared with the City of Everett. In recent years, the sand filters have experienced significant clogging due to the presence of daphnia, which feed off algae present in the lagoon, and debris that is windblown or from aquatic/shoreline vegetation. Sand filter clogging has led to significant maintenance requirements, as well as difficulty in maintaining effluent total suspended solids (TSS) in compliance with the City's National Pollutant Discharge Elimination System (NPDES) permit due to limited hydraulic throughput. The City anticipates a significant WWTP upgrade to address pending requirements for nitrogen removal that will abandon lagoon treatment in the long-term, at which point daphnia and debris are not expected to be an issue. However, in the near-term, improvements are needed to reduce the significant maintenance requirements of sand filter operation and maintain adequate hydraulic throughput to ensure effluent TSS remains compliant with the City's NPDES permit.

The City has retained BHC Consultants, LLC (BHC) to design near-term improvements for removal of daphnia and debris from the lagoon effluent. As part of the recently completed "WWTP Improvement Plan," BHC had identified and evaluated options for near-term improvements. It was recommended that a band screen be installed to remove debris and larger daphnia, and an automatic strainer be used to remove the bulk of the remaining daphnia prior to filtration. The strainer would be sized to treat at least the average dry weather flow when daphnia are most persistent. BHC will prepare a report amending the "City of Marysville Wastewater Treatment Plant Capital Facilities Plan" (Tetra Tech/KCM, February 2001) summarizing the evaluation of alternatives included in the "WWTP Improvement Plan," describing the proposed improvements, refining the sizing and design criteria used as the basis for evaluation in the "WWTP Improvement Plan," developing a preliminary layout and control strategy, and defining a sequence of construction. This amendment will serve as approval of an engineering report as required by Chapter 173-240-060 of the Washington Administrative Code (WAC), as discussed with Ecology via e-mail on August 7, 2020. BHC will then prepare design documents and final bid documents and provide services during bidding as described herein. Services during construction are identified as a future phase of work that can be added to the agreement via amendment.

Schedule

BHC will undertake to complete the Scope of Work based on the following milestones:

- Project Kickoff Workshop – 2 weeks from Notice-to-Proceed (NTP).
- Draft Engineering Report Amendment – 8 weeks from NTP.
- Final Engineering Report Amendment – 10 weeks from NTP.
- 50% Design Submittal (Drawings, Specifications, OPCC, SEPA Checklist) – 20 weeks from NTP.
- 90% Design Submittal (Drawings, Specifications, OPCC) – 30 weeks from NTP.
- Final Bid Documents Submittal (Stamped and Signed Drawings and Specifications) – 36 weeks from NTP.

If necessary, this schedule shall be equitably adjusted to allow for changes in scope or for delays beyond BHC's reasonable control.

Budget

The budget for this Scope of Work is \$257,055. Compensation will be on a time and materials basis per the attached budget estimate. Compensation shall not exceed the budgeted amount without prior authorization from the City.

Scope of Work

Tasks for the Scope of Work include the following:

Task 1 – Project Management and Quality Control

- 1.1 Project setup and invoicing, communications with the City, project planning and coordination, and subconsultant contracting and coordination.
- 1.2 Internal quality control review of the draft report and 90% design submittal.

Receivables:

- None.

Deliverables:

- Invoices.

Task 2 – Site Visits and Workshops

The site visits and workshops listed below are anticipated as part of this Scope of Work. Each site visit is assumed to be 2 hours, plus time for travel and preparation. Each workshop is also assumed to be 2 hours, plus time for preparation and notes. No travel time is included with the workshops as they will either coincide with a site visit or be conducted virtually using Microsoft Teams, depending on local and national health guidelines at the time. For each workshop BHC will prepare an agenda and notes to document direction and decisions resulting from the meeting. Workshop notes will be provided in electronic format.

- 2.1 BHC will conduct a project kickoff workshop to establish project criteria (e.g., redundancy, capacity, etc.), constraints (e.g., locations, permitting, etc.) and schedule. This will build off the near term improvement concept developed in the recently completed WWTP Improvement Plan. This workshop will include two representatives from BHC.
- 2.2 BHC will conduct a 50% design review workshop to collect and discuss comments from the City on the 50% design submittal, review the Opinion of Probable Construction Cost (OPCC), and review the project schedule. This workshop will include up to four representatives from BHC.
- 2.3 BHC will conduct a 90% design review workshop to collect and discuss comments from the City on the 90% design submittal, discuss comments from the Washington State Department of Ecology (Ecology) on the 90% design submittal and responses to those comments, review the opinion of probable construction cost, and review the project schedule. This workshop will include up to four representatives from BHC.
- 2.4 BHC will conduct an initial site visit to take field measurements and photographs, gather information from City staff, and verify existing conditions and equipment compared to record drawings. If the design kickoff workshop can be conducted in person, BHC will conduct this initial site visit concurrent with the design kickoff workshop. Otherwise, this site visit will be arranged separately. The site visit will be attended by up to four representatives from BHC.
- 2.5 BHC will conduct a second site visit to review the proposed improvements to identify potential conflicts, verify critical dimensions, and confirm integration with existing structures and equipment. If the 50% design workshop can be conducted in person, BHC will conduct this second site visit concurrent with the 50% review workshop. Otherwise, this site visit will be arranged separately. The site visit will be attended by up to three representatives from BHC.

Receivables:

- None.

Deliverables:

- Workshop agenda and presentation materials.
- Workshop meeting/site visit notes.

Task 3 – Site Investigations and Permitting Assistance

- 3.1 BHC's geotechnical engineering subconsultant (Landau) will conduct site investigations and prepare a report documenting geotechnical findings and considerations. Site investigations will involve one soil boring conducted near the existing sand filters in the location where the new band screen (installed in a precast vault), booster pump, and automatic strainer will be located.
- 3.2 Permitting assistance will include preparation of a SEPA checklist and responding to technical questions from the City associated with the SEPA process. BHC will prepare a SEPA checklist and submit it to the City for review and action with the 50% submittal. The City will be responsible for completing and overseeing the SEPA process. The City will be also responsible for preparation of a shoreline permit application and associated agency coordination and required information. Although the WWTP is in the floodplain, existing grade and berm elevations are above the flood elevation.
- 3.3 BHC will submit 90% design submittal to Ecology for review and approval. Comments received from Ecology will be discussed during the 90% design review workshop, addressed in the final bid documents, and a list of responses to Ecology comments prepared and submitted to Ecology with the final bid documents for verification that the manner in which the comments were addressed is acceptable.

Receivables:

- None.

Deliverables:

- Final geotechnical report with boring log.
- The SEPA checklist will be provided as part of the 50% design submittal.
- Responses to Ecology comments on the 90% design submittal.

Task 4 – Preliminary Design and Engineering Report Amendment

- 4.1 Develop a request for information from the City, review the information received, and follow-up with the City on items requiring further clarification. Information may include record drawings, WWTP data, existing equipment information, photos, and laboratory analyses. BHC will review existing lagoon effluent quality data to establish solids loading to the new screen and strainer. BHC will request the City analyze effluent samples for particle size distribution to help size the screening elements and determine capture rates that could be expected in each stage. BHC will use this information to refine the conceptual sizing, layout, and design criteria included in the "WWTP Improvement Plan" and verify appropriate hydraulic conditions.
- 4.2 BHC will develop a preliminary layout drawing, preliminary process and instrumentation diagrams, a draft control narrative, and a draft construction sequence. This information will be included and summarized in the engineering report amendment.
- 4.3 BHC will prepare a report amending the "City of Marysville Wastewater Treatment Plant Capital Facilities Plan" (Tetra Tech/KCM, February 2001). This will allow for approval of an engineering report in accordance with WAC 173-240-060 without having to address items that are not impacted by the proposed project. The report will include the description and evaluation of alternatives considered from the "WWTP Improvement Plan," a description of the proposed improvements, summary of the refined sizing and design criteria to be used, preliminary layout, preliminary control narrative and construction sequence, discussion of permitting requirements, and preliminary opinion of probable construction cost (OPCC). The draft report will be provided to the City for review as a PDF document. The City will provide consolidated comments to

BHC for inclusion in the final report. BHC will incorporate comments from the City into a final report. The final report will be provided as a PDF document signed and stamped by a professional engineer registered in Washington state. BHC will prepare a cover letter indicating that the report is amending the 2001 facilities plan. The City will submit the letter and final report to Ecology for review and approval. BHC will prepare responses to Ecology comments and, if necessary, revise the final report.

Receivables:

- Requested information including WWTP data, equipment information, and laboratory data.
- Consolidated review comments on the draft report.

Deliverables:

- Draft Engineering Report Amendment.
- Final Engineering Report Amendment.
- Responses to Ecology comments (and revised final report, if necessary).

Task 5 – Bid Document Preparation

BHC will prepare drawings and specifications for the proposed improvements. BHC will prepare 50% and 90% design submittals in PDF format for review by the City, address City comments on each and Ecology comments on the 90% submittal, and produce a final set of documents for bidding. Bid document preparation will include the following activities:

- 5.1 Prepare general, civil, demolition, mechanical, structural, electrical and instrumentation drawings. Time budgeted for preparation of the drawings is based on having to recreate drawing backgrounds from PDF files of record drawings and using the aerial site plan created for the effluent flow splitting project as a basis for the site plan for this project. The following is a list of anticipated drawings, which is the basis of the budget estimate (drawings in **BOLD** will be included in the 50% submittal):
 - **G1** **Cover Sheet, Index of Drawings, Location and Vicinity Maps**
 - **G2** **Symbols, Designations and Abbreviations**
 - **G3** **Site Map, Legend and General Notes**
 - **G4** **Design Criteria**
 - **G5** **Process Flow Diagram and Hydraulic Profile**
 - **C1** **Site Plan**
 - **C2** **Screen Vault Plan and Sections**
 - C3 Civil Details
 - **D1** **Effluent Filtration Area Demolition Plan**
 - **D2** **Effluent Filtration Area Demolition Sections and Details**
 - S1 Structural General Notes and Abbreviations
 - S2 Structural Details
 - S3 Equipment Pads
 - **M1** **Lagoon Effluent Screening Plan and Sections**
 - **M2** **Automatic Strainer Plan**
 - **M3** **Automatic Strainer Sections**
 - M4 Pipe Penetrations and Supports
 - M5 Miscellaneous Details
 - **E1** **Electrical Symbols and Abbreviations**
 - E2 Electrical Details
 - **E3** **One-Line Diagram**
 - E4 Panel Schedule and Load Calculations
 - **E5** **Electrical Site Plan**

- E6 Lagoon Effluent Screening Power and Control Plan
- E7 Automatic Strainer Power and Control Plan
- E8 Conduit and Wire Schedule
- E9 Equipment Wiring Diagrams
- **I1 P&ID Symbols and Abbreviations**
- **I2 Network System Diagram**
- **I3 Lagoon Effluent Screening P&ID**
- **I4 Automatic Strainer P&ID**
- I5 PLC Wiring Diagrams

5.2 Prepare bid specifications. The 50% specifications will consist of a table of contents, construction sequence specification, drafts of major equipment and instrument specifications and control narratives in CSI format. These CSI formatted specifications (Divisions 1 – 17) will be referenced and included as Special Provisions to the WSDOT Standard Specifications referenced in the City's standard front end (Division 0) documents. The 90% specifications will incorporate comments received on the 50% specifications, include drafts of the remaining technical specifications and edits to the City's standard bidding and contract documents. The following is a list of anticipated specifications, which is the basis of the engineering budget estimate (specifications in **BOLD** will be included in the 50% submittal):

- **Table of Contents**
- Division 0 Bidding and Contract Documents
- 01010 General Requirements
- 01025 Measurement and Payment
- **01040 Construction Constraints and Sequence**
- 01300 Submittals
- 01400 Testing and Quality Control
- 01410 Regulatory Requirements
- 01500 Construction Facility and Temporary Controls
- 01660 Facility Startup and Testing
- 01710 Closeout Procedures
- 01720 Record Drawings
- 01730 Operation and Maintenance Data
- 02050 Demolition
- 03002 Cast-in-Place Concrete and Reinforcing Steel
- 03600 Grout
- 05120 Structural Steel Framing
- 05500 Metal Fabrications
- 06611 FRP Grating
- 09920 Protective Coatings
- 11010 Equipment General Provisions
- **11150 Band Screen**
- **11160 Automatic Strainer**
- **11330 Centrifugal Pump**
- **11501 Electric Actuators**
- 15010 Mechanical General Provisions
- 15051 Coding and Identification
- 15060 Process Pipe
- 15070 Piping Appurtenances
- 15075 Pipe Support Systems

- 15100 Valves
- 16010 Electrical Work – General
- 16020 Identification for Electrical Systems
- 16110 Raceways and Boxes for Electrical Systems
- 16120 Conductors and Cables
- 16140 Wiring Devices
- 16180 Overcurrent and Short Circuit Protective Devices
- 16190 Hangers and Supports for Electrical Systems
- 16440 Panelboards
- 16450 Grounding and Bonding for Electrical Systems
- 16910 Variable Frequency Drives
- 16940 Control Panels
- 17010 Instrumentation and Controls General Requirements
- **17113 Magnetic Flow Meter**
- **17500 Control Narratives**

5.3 Comments from the City and Ecology on the 90% submittal will be incorporated into the final bid documents. Final drawings and specifications will be provided as electronically signed PDF files.

5.4 Prepare design milestone OPCCs based on the following American Association of Cost Engineering guidelines:

- The 50% OPCC will reflect a Class 2 estimate (applicable for 30% to 75% design) with an expected accuracy range of -15% to +20%.
- The 90% OPCC will reflect a Class 1 estimate (applicable for 65% to 100% design) with an expected accuracy range of -10% to +15%.

Receivables:

- Consolidated comments on the 50% Design Submittal.
- Consolidated comments on the 90% Design Submittal.

Deliverables:

- 50% Design Submittal.
- 90% Design Submittal.
- Final Bid Documents.

Task 6 – Services During Bidding

6.1 BHC will organize and attend the pre-bid meeting, including preparation of an agenda. One person from BHC will attend the pre-bid meeting.

6.2 BHC will respond to bidder questions and prepare addenda. For budgetary purposes, it is assumed that three addenda will be prepared and the bid period will not exceed 5 weeks. The City will be responsible for advertisement, providing documents to bidders, maintaining the plan holder list, distributing addenda, and preparing a tabulation of bids.

6.3 BHC will assist with evaluation of bids and advise the City on contract award.

Receivables:

- None.

Deliverables:

- Addenda.

Task 7 – Services During Construction

This task is not included in this initial Scope of Work, but is intended to be added as an amendment once the design documents are complete and a more accurate scope for this work can be determined from the final design. BHC's subconsultant Akana would provide construction management services including contract administration, document management, preparation of a construction quality assurance plan (CQAP), on-site observation, and as-needed inspection services. BHC would provide engineering services including preparation of conformed documents, review of submittals, responses to RFIs, preparation of field memos, change order review, startup assistance, and general technical support. Additionally, BHC will prepare record drawings and update the WWTP operation and maintenance (O&M) manual to incorporate the new systems. Preparation of the record drawings would include documenting the final design based on contractor redline markups and known changes documented in submittals, RFIs, field memos, and change orders. Updates to the O&M manual would include descriptions of the function and purpose of the new systems, discussion of normal and emergency operations and impacts to/from related processes, startup, shutdown, relevant safety concerns, and routine preventative maintenance activities. Figures including photos, SCADA screen shots, and diagrams will be included as appropriate.

City Responsibilities

The following items are specific responsibilities of the City in support of this Scope of Work:

- Provide requested information as available.
- Provide access to staff to answer questions.
- Participate in workshops and arrange the meeting location if in person.
- Provide consolidated review comments on submittals.
- Advertise the project for bidding, review bids, and award the contract.
- Conduct the SEPA process.
- Prepare the Shoreline Permit application and facilitate the permitting process.
- Preparation of the building permit application (if required) and facilitating the permit process.
- Paying permit fees.

Exclusions

The following items are excluded from this Scope of Work, but can be added via amendment to the original agreement or included in a future Scope of Work if the City so desires:

- Hard copies of the design review submittals, final bid documents, or other deliverables. All deliverables will be submitted electronically.
- Site visits or workshops beyond those identified in the Scope of Work.
- Permitting assistance beyond preparation of a SEPA checklist, technical assistance with the SEPA process, and coordinating Ecology review. The City will facilitate the SEPA process. If required, the City will be responsible for preparing and submitting the necessary building permit and shoreline permit applications and paying any required permit fees. The contractor will be responsible for procuring the required electrical permit.
- Environmental reviews.
- Amendments or updates to the general sewer plan.
- Preparation of a complete engineering report beyond the engineering report amendment included in the Scope of Work.
- Addenda, meetings, site visits, drawings, and specifications beyond those budgeted.
- Assistance with pre-procurement or pre-selection of equipment.

- Council briefings.
- Cultural resources survey.
- Site surveying and creation of a base map.
- Stormwater or drainage improvements.
- Utility potholing.
- Additional soil borings and geotechnical investigation beyond what is budgeted.
- Condition assessments of existing equipment, structures, etc.
- Preparation of bid advertisement, advertisement of project, providing bid documents to bidders, maintaining plan holder list, distributing clarifications and addenda, and preparing a tabulation of bids. These are responsibilities of the City.
- Bid support services if the project is re-bid.
- Services during construction (as identified herein) including record drawings and O&M manual updates, except if added via amendment.
- Programming services for programmable logic controllers or any other electrical devices.
- No new control panels will be required. All controls will be connected to existing control panels.

EXHIBIT B - BUDGET SPREADSHEET

P.M.: Tom Giese

Project No.:

Date: 2/9/21

Project Name WWTP Near Term Improvements

Task No.	Task Description	QA/QC Dorn		Proj. Manager Giese		Elect. Engr. Palmer		Struct. Engr. Franco		Staff Engr. Bryant		CAD Manager Simon		CAD Drafter Caldwell		Project Admin Coughlin		Clerical/WP Sifferman		Subconsultant		Total		
		\$250		\$230		\$210		\$210		\$135		\$175		\$125		\$120		\$115						
		Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Cost	10% Markup	Hours	Cost	
1 Project Management and Quality Control																								
1.1	Project Setup, Invoicing, Communications, Coordination		\$0	44	\$10,120		\$0		\$0		\$0		\$0		\$0	14	\$1,680		\$0		\$0		58	\$11,800
1.2	Quality Control Review	12	\$3,000		\$0		\$0		\$0		\$0		\$0		\$0		\$0		\$0		\$0		12	\$3,000
2 Site Visits and Workshops																								
2.1	Design Kickoff Workshop		\$0	4	\$920		\$0		\$0	4	\$540		\$0		\$0		\$0		\$0		\$0		8	\$1,460
2.2	50% Design Review Workshop		\$0	4	\$920	2	\$420	2	\$420	4	\$540		\$0		\$0		\$0		\$0		\$0		12	\$2,300
2.3	90% Design Review Workshop		\$0	4	\$920	2	\$420	2	\$420	4	\$540		\$0		\$0		\$0		\$0		\$0		12	\$2,300
2.4	Initial Site Visit		\$0	6	\$1,380	4	\$840	4	\$840	4	\$540		\$0		\$0		\$0		\$0		\$0		18	\$3,600
2.5	Second Site Visit		\$0	6	\$1,380	4	\$840		\$0	4	\$540		\$0		\$0		\$0		\$0		\$0		14	\$2,760
3 Site Investigations and Permitting Assistance																								
3.1	Geotechnical Investigations		\$0	4	\$920		\$0		\$0		\$0		\$0		\$0		\$0		\$0		\$16,300	\$1,630	4	\$18,560
3.2	SEPA Checklist		\$0	4	\$920		\$0		\$0	10	\$1,350		\$0		\$0		\$0		\$0		\$0		14	\$2,270
3.3	Ecology Bid Document Review		\$0	8	\$1,840		\$0		\$0	4	\$540		\$0		\$0		\$0		\$0		\$0		12	\$2,380
4 Preliminary Design & Engineering Report Amendment																								
4.1	Information Request, Review, and Analysis		\$0	6	\$1,380		\$0		\$0	16	\$2,160		\$0		\$0		\$0		\$0		\$0		22	\$3,540
4.2	Preliminary Drawings, Control Narrative, Const. Sequence		\$0	12	\$2,760		\$0	4	\$840	24	\$3,240		24	\$3,000		\$0		\$0		\$0		\$0	64	\$9,840
4.3	Engineering Report Amendment		\$0	16	\$3,680	4	\$840		\$0	40	\$5,400		\$0		\$0		\$0	4	\$460		\$0	64	\$10,380	
5 Bid Document Preparation																								
5.1	50% Drawings		\$0	38	\$8,625	26	\$5,513	0	\$0	90	\$12,150	9	\$1,575	135	\$16,875	0	\$0	0	\$0		\$0		298	\$44,738
	90% Drawings		\$0	30	\$6,900	72	\$15,089	43	\$9,072	65	\$8,748	2	\$315	182	\$22,725	0	\$0	0	\$0		\$0		393	\$62,849
5.2	50% Specifications		\$0	39	\$8,901	0	\$0	0	\$0	30	\$4,010	0	\$0	0	\$0	0	\$0	4	\$466	\$4,000	\$400	72	\$17,776	
	90% Specifications		\$0	32	\$7,245	32	\$6,804	10	\$2,079	32	\$4,374	0	\$0	0	\$0	0	\$0	17	\$1,967		\$0	123	\$22,469	
5.3	Final Drawings		\$0	8	\$1,725	11	\$2,289	5	\$1,008	17	\$2,322	1	\$210	35	\$4,400	0	\$0	0	\$0		\$0		77	\$11,954
	Final Specifications		\$0	8	\$1,794	4	\$756	1	\$231	7	\$932	0	\$0	0	\$0	0	\$0	2	\$270		\$0	22	\$3,983	
5.4	Opinions of Probable Construction Cost		\$0	8	\$1,840	12	\$2,520	8	\$1,680	18	\$2,430		\$0		\$0		\$0		\$0		\$0		46	\$8,470
6 Services During Bidding																								
6.1	Pre-Bid Meeting		\$0	8	\$1,840		\$0		\$0		\$0		\$0		\$0		\$0	6	\$690		\$0		14	\$2,530
6.2	Bidder Questions and Addenda		\$0	12	\$2,760	4	\$840	2	\$420	8	\$1,080		\$0	6	\$750		\$0		\$0		\$0		32	\$5,850
6.3	Assistance with Bid Evaluation		\$0	3	\$690		\$0		\$0	3	\$405		\$0		\$0		\$0		\$0		\$0		6	\$1,095
8 Services During Construction (Future Task)																								
TOTAL DIRECT LABOR																								
		12	\$3,000	302	\$69,460	177	\$37,170	81	\$17,010	384	\$51,840	12	\$2,100	382	\$47,750	14	\$1,680	34	\$3,853	\$20,300	\$2,030	1,398	\$256,193	
TOTAL REIMBURSABLE EXPENSES		\$784 (Mileage, mailings, misc.)																						
Markup @		10%																						
TOTAL BUDGET		\$257,055																						

EXHIBIT B
Subcontractors/Subconsultants

Below is a list of approved subcontractors/subconsultants. If left blank, there are no approved subcontractors or subconsultants.

- _____
Landau Associates
- _____
Akana
- _____
- _____
- _____
- _____

Index #8

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

AGENDA ITEM:	
Strawberry Court (PA20-041) – Water Easement Relinquishment	
PREPARED BY:	DIRECTOR APPROVAL:
Ken McIntyre, Development Services Manager	<i>KE for KN</i>
DEPARTMENT:	
Public Works	
ATTACHMENTS:	
<ol style="list-style-type: none"> 1. Easement Relinquishment Document 2. AFN 2091332 – Easement for water pipeline 	
BUDGET CODE:	AMOUNT:
SUMMARY:	

WK Investments, LLC has submitted a land use application for a parcel located at 1060 Columbia Avenue, proposing a 3-story apartment building with 42 residential units. The parcel contains an existing easement recorded in April of 1969 for the stated purpose of a water pipeline.

The City does not currently operate a water pipeline within this easement. The City does operate a water main within the public right-of-way (Columbia Ave), roughly 10-ft west of the project's front boundary. Because this easement is no longer used by the City, the applicant is requesting that the City relinquish the water easement encumbrance. The Public Works Department has reviewed the request, and recommends that the City Council authorize the Mayor to execute and record the attached easement relinquishment document.

RECOMMENDED ACTION:

Staff recommends that Council authorize the Mayor execute the attached easement relinquishment document and record with the Snohomish County Auditor.

RECOMMENDED MOTION:

I move to authorize the Mayor to sign and execute the easement relinquishment document and record it with the Snohomish County Auditor.

WHEN RECORDED RETURN TO:
CITY OF MARYSVILLE
1049 STATE AVENUE
MARYSVILLE, WA 98270

RELINQUISHMENT OF EASEMENT

LEGAL DESCRIPTION:

ABBREVIATED: PTN SE1/4 NW1/4, STR 28-30N-5E, W.M.

FULL: SEE EXHIBIT B

TAX PARCEL NUMBER(S): 300528-002-203-00

GRANTOR: City of Marysville, a municipal corporation

GRANTEE: WK Investments LLC, a Washington limited liability company

CROSS REF: 2091332

WHEREAS, the City of Marysville, a municipal corporation of the State of Washington (“Marysville”), is the grantee of that certain Easement for a water pipeline dated April 15, 1969 and recorded under Auditors File No. 2091332 records of Snohomish County, Washington, attached hereto as Exhibit A (the “Easement”); and

WHEREAS, the Easement burdens the property described in Exhibit B; and

WHEREAS, Marysville desires to relinquish, vacate, and release the Easement.

NOW, THEREFORE, the City of Marysville relinquishes, vacates, and releases the pipe line easement recorded under Auditors File No. 2091332 records of Snohomish County

DATED this _____ day of _____, 20____.

CITY OF MARYSVILLE

By: _____
Jon Nehring, Mayor

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Jon Nehring is the person who appeared before me and said person acknowledged that he signed this instrument as the Mayor of City of Marysville and acknowledge it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 20__

(Notary Signature)

(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): _____
My commission expires: _____

EXHIBIT A

The East 20 feet of the West 45 feet of the north 160 feet; together with the East 15 feet of the West 25 feet of the south 55 feet of the following described tract:

North 200 feet of the following: beginning at a point 280 feet north of the NW corner of Lot 12, block 2, Schlageters add; thence N 320.48 feet; thence W 255 feet more or less; thence S 320.48 feet more or less to a point W of point of beginning; thence E 255 feet more or less to point of beginning. All located in Sec 28, T 30 N, R5 E, WM.

EXHIBIT B

That portion of the Southeast Quarter of the Northwest Quarter of Section 28, Township 30 North, Range 5 East of the Willamette Meridian, described as follows:

Commencing at the Southeast corner of said subdivision;

Thence North 0°03'30" East along the East line of said subdivision for a distance of 197.60 feet to a point on the North line of 10th Street in the Town of Marysville produced East and the centerline of Alder Street;

Thence continue North 0°03'30" East along said East line, also being the centerline of Alder Street for a distance of 630.48 feet to an iron pipe, said iron pipe being on the South line produced East of the Plat of Fauvers Addition to Marysville;

Thence North 89°31'05" West along said line for a distance of 253.86 feet to the Northeast corner of that certain tract of land as conveyed in Auditor's File No. 1254372, said Northeast corner also being the true point of beginning;

Thence continue North 89°31'05" West for a distance of 482.81 feet to a point 180.00 feet East of the East line of State Street;

Thence South 0°04'00" West for 250.01 feet along a line being parallel to State Street;

Thence South 89°31'05" East for a distance of 255.06 feet;

Thence South 0°03'30" West for a distance of 50.00 feet to the South line of that certain tract of land conveyed in Auditor's File No. 1282463;

Thence South 89°31'05" East along the South line of said tract for a distance of 217.79 feet to the Southeast corner thereof;

Thence North 0°03'30" East along the East line thereof for a distance of 200.01 feet to the Northeast corner thereof, also being the Southeast corner of that certain tract of land as conveyed in Auditor's File No. 1254372;

Thence North 0°03'30" East along the East line of said tract for a distance of 100.00 feet to the true point of beginning;

Except that portion lying West of the East line of Columbia Avenue as conveyed to the City of Marysville by deed recorded under Auditor's File No. 9403020284, records of Snohomish County, Washington.

Situate in the County of Snohomish, State of Washington.

Parcel ID: 300528-002-203-00

2091332
B 46
C 85
2
2

STATE OF WASHINGTON
SNOHOMISH COUNTY, WASH.
DEPUTY
NOTARY PUBLIC
A. J. B. [Signature]

530 MAY 6 AM 10 47

VOL. OF
PAGE
REQ. OF
No. RECORDED

2091332

D. C. BOGARD GRANTOR
to
CITY OF MARYSVILLE, WASHINGTON, GRANTEE

EASEMENT FOR PIPE LINE OFFICIAL RECORDS

The undersigned, Grantors, for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, by these presents bargain, sell, transfer and convey unto the City of Marysville, Washington, a municipal corporation of the State of Washington Grantee, an easement over, across, along and under the following described property situated in Snohomish County, State of Washington:

North 200 feet of the following: beginning at a point 280 feet north of the NW corner of lot 12, block 2 Schlageters add; thence N 320.48 feet; thence W 255 feet more or less; thence S 320.48 feet more or less to a point W of point of beginning; thence E 255 feet more or less to point of beginning. All located in Sec 28, T 30 N, R 5 EWM.

Said easement shall occupy and include

The East 20 feet of the West 45 feet of the North 160 feet; together with the East 15 feet of the West 25 feet of the South 55 feet of the above-described tract.

and shall be for the purpose of installing, constructing, maintaining, operating, repairing and replacing a water pipeline or lines and all necessary connections and appurtenances thereto, together with the right of ingress and egress to, from and across said described property for the foregoing purposes. Said easement shall also include the right to construct cuts or fills within the easement granted and cut or fill slopes within the property of the Grantor immediately adjacent to said easement, provided that Grantee shall not construct cuts below nor fills above the grade of the existing roadway and that slopes shall be reasonable for the type of earth from which they are constructed.

It is further provided that Grantee shall repair and restore any private improvements which are disturbed or damaged in either the original installation or in maintenance of said pipeline or lines to their original condition, as near as may be, and that upon completion of construction Grantee shall remove all debris and leave the easement area and adjacent slopes in a neat and orderly condition.

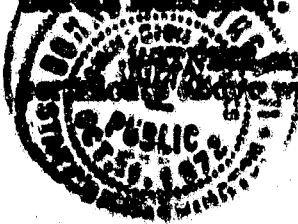
Dated this 15th day of April, 1969

[Signature]
Lulu Bogard

STATE OF WASHINGTON)
COUNTY OF Snohomish) 88

On this 15th day of April, 1969, before me, the undersigned, a NOTARY PUBLIC in and for the State of Washington, duly commissioned and sworn, personally appeared D. C. Bogard & Lulu Bogard

to me known to be the individual(s) described in and who executed the foregoing instrument as Grantors, free and voluntary act and deed for the uses and purposes therein mentioned.



My hand and official seal hereto affixed the day and year in this instrument above written.

NO SALES TAX REQUIRED
Notary Public in and for the State of Washington,
residing at [Signature]

MAY 6 - 1969

OFFICIAL RECORDS

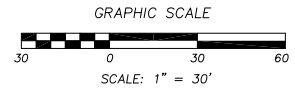
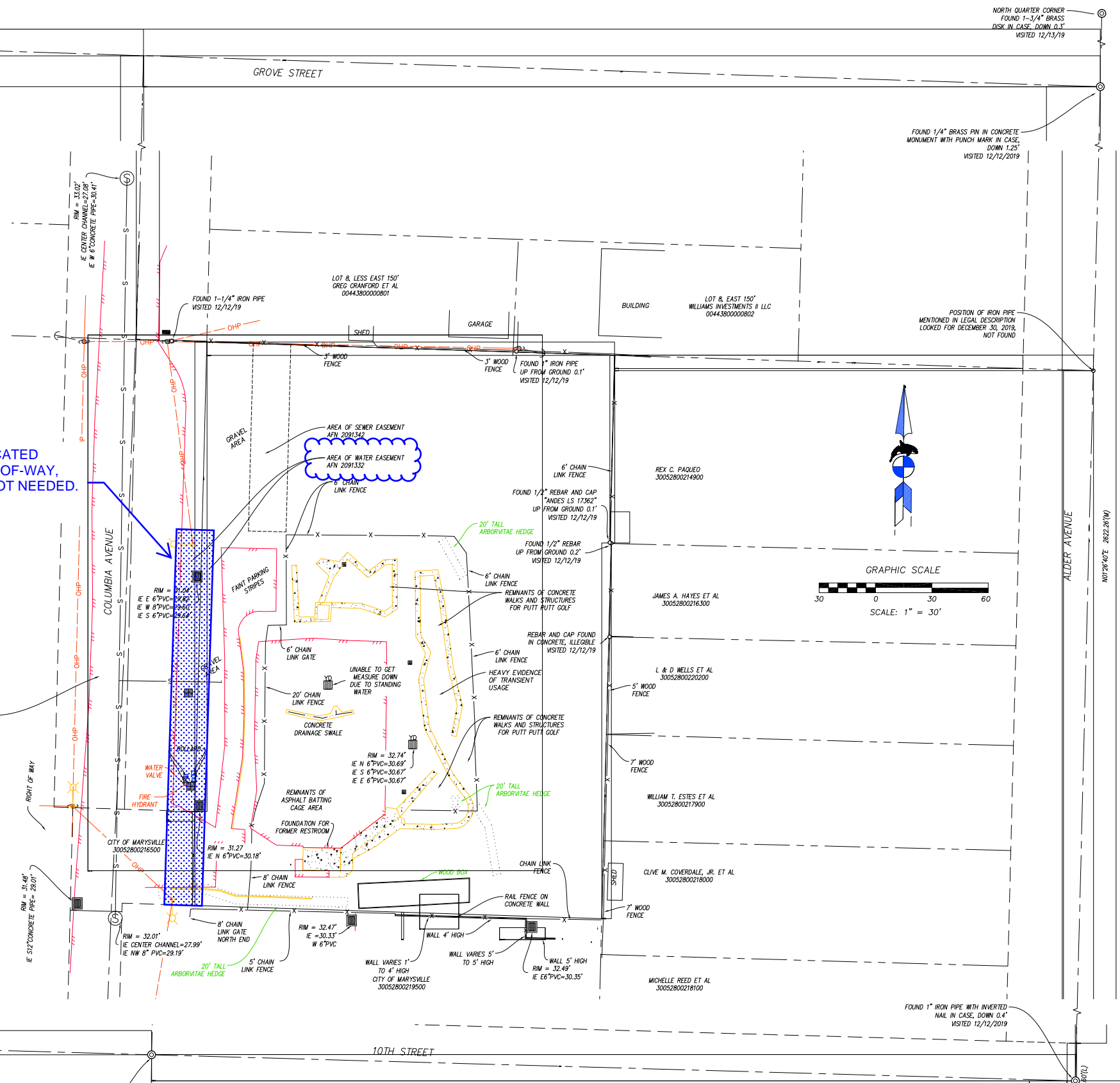
VR 313 PAGE 95

0000000000

- LEGEND**
- WATER VALVE
 - FIRE DEPARTMENT CONNECTION
 - UTILITY POLE
 - STREET LIGHT
 - ELECTRIC JUNCTION BOX
 - SANITARY SEWER MANHOLE
 - CATCH BASIN: TYPE 1 W/GRATE
 - CONCRETE (WALKS, SLABS, CURB)
 - PA PLANTER AREA
 - WATER METER
 - MAG AND WASHER FOUND
 - REBAR AND CAP FOUND
 - MONUMENT IN CASE
 - GUY ANCHOR
 - YARD DRAIN
 - ELECTRIC OUTLET
 - IRON PIPE FOUND
 - LIGHT POLE
- (C) CALCULATED DIMENSION
(M) MEASURED DIMENSION
(L) DIMENSION CITED IN THE LEGAL DESCRIPTION
(P1) DIMENSION CITED ON OR CALCULATED FROM PLAT-SE
(P2) DIMENSION CITED ON OR CALCULATED FROM PLAT-SE
(R1) DIMENSION CITED ON RECORD OF SURVEY AFN 760820
(R2) DIMENSION CITED ON RECORD OF SURVEY AFN 85052
(R3) DIMENSION CITED ON RECORD OF SURVEY AFN 9207215004
(R4) DIMENSION CITED ON RECORD OF SURVEY AFN 2344329

WATER MAIN IS LOCATED WITHIN CITY RIGHT-OF-WAY, SO EASEMENT IS NOT NEEDED.

- GENERAL NOTES:**
1. ALTA COMMITMENT FOR TITLE INSURANCE FROM CHICAGO TITLE INSURANCE COMPANY, FILE NO. 500094456 DATED DECEMBER 17, 2019
 2. SITE ADDRESS: COLUMBIA AVENUE, MARYSVILLE, WA 98270
 3. CURRENT ZONING CLASSIFICATION: MIXED USE
 4. CURRENT ZONING SETBACKS: SETBACKS WILL BE DETERMINED AT TIME OF BUILDING PERMIT APPLICATION.
 5. SITE AREA: 65,267.59 SQ FT, 1.50 AC
 6. NO WETLAND DELINEATIONS WERE OBSERVED.
 7. NO BUILDINGS
 8. ZONE "X" OF FEMA'S FIRM 530610716F
 9. THERE ARE NO PARKING STALLS.
 10. THERE IS NO CURRENT EARTH MOVING WORK. SITE HAS LARGE AREA OF ASPHALT, WITH SCATTERED REMNANTS OF CONCRETE SIDEWALKS. THE MAJORITY OF THE SITE IS OPEN GROUND.
 11. ROADS DEPICTED HEREON ARE PUBLIC RIGHT-OF-WAY.
 12. THERE IS HEAVY EVIDENCE OF TRANSIENT USAGE, INCLUDING GARBAGE AND BROKEN LIQUOR BOTTLES IN THE INNER FENCE AREA.



EQUIPMENT & PROCEDURES

INSTRUMENTATION: LEICA TORM1205 TOTAL STATION AND STONEX S900 GPS
METHOD OF SURVEY: GPS STATIC TRAVERSE WITH STONEX S900 OF EXISTING MONUMENTATION

SURVEY PRECISION: MEETS OR EXCEEDS:
1) MINIMUM MEASUREMENT STANDARDS FOR ALTA/NSPS LAND TITLE SURVEYS
2) MINIMUM REQUIREMENTS PER I.A.C. 332-130-090.

BASES OF BEARINGS: CENTERLINE OF ALDER AVENUE BETWEEN FOUND MONUMENTS AT 10TH STREET AND GROVE STREET BASED ON GPS OBSERVATION OF THE MONUMENTS.

REFERENCES:

- (P1) PLAT OF FAULNER'S ADDITION TO THE CITY OF MARYSVILLE, VOLUME 13, PAGE 97
- (P2) PLAT OF SCHLAGETER'S ADDITION TO MARYSVILLE, VOLUME 10, PAGE 101
- (R1) RECORD OF SURVEY, AFN 7608200267
- (R2) RECORD OF SURVEY, AFN 86052035001
- (R3) RECORD OF SURVEY, AFN 9207215004
- (R4) RECORD OF SURVEY, AFN 2344329

LEGAL DESCRIPTION:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 30 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SUBDIVISION;
THENCE NORTH 0°33'30" EAST ALONG THE EAST LINE OF SAID SUBDIVISION FOR A DISTANCE OF 192.60 FEET TO A POINT ON THE NORTH LINE OF 10TH STREET IN THE TOWN OF MARYSVILLE PRODUCED EAST AND THE CENTERLINE OF ALDER STREET;
THENCE CONTINUE NORTH 0°33'30" EAST ALONG SAID EAST LINE, ALSO BEING THE CENTERLINE OF ALDER STREET FOR A DISTANCE OF 630.48 FEET TO AN IRON PIPE, SAID IRON PIPE BEING ON THE SOUTH LINE PRODUCED EAST OF THE PLAT OF FAULNER'S ADDITION TO MARYSVILLE;
THENCE NORTH 89°31'05" WEST ALONG SAID LINE FOR A DISTANCE OF 253.86 FEET TO THE NORTHEAST CORNER OF THAT CERTAIN TRACT OF LAND AS CONVEYED IN AUDITOR'S FILE NO. 1254372, SAID NORTHEAST CORNER ALSO BEING THE TRUE POINT OF BEGINNING;
THENCE CONTINUE NORTH 89°31'05" WEST FOR A DISTANCE OF 482.81 FEET TO A POINT 180.00 FEET EAST OF THE EAST LINE OF STATE STREET;
THENCE SOUTH 0°04'00" WEST FOR 250.01 FEET ALONG A LINE BEING PARALLEL TO STATE STREET;
THENCE SOUTH 89°31'05" EAST FOR A DISTANCE OF 255.06 FEET;
THENCE SOUTH 0°03'30" WEST FOR A DISTANCE OF 50.00 FEET TO THE SOUTH LINE OF THAT CERTAIN TRACT OF LAND CONVEYED IN AUDITOR'S FILE NO. 1282463;
THENCE SOUTH 89°31'05" EAST ALONG THE SOUTH LINE OF SAID TRACT FOR A DISTANCE OF 217.79 FEET TO THE SOUTHEAST CORNER THEREOF;
THENCE NORTH 0°03'30" EAST ALONG THE EAST LINE THEREOF FOR A DISTANCE OF 200.01 FEET TO THE NORTHEAST CORNER THEREOF, ALSO BEING THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND AS CONVEYED IN AUDITOR'S FILE NO. 1254372;
THENCE NORTH 0°03'30" EAST ALONG THE EAST LINE OF SAID TRACT FOR A DISTANCE OF 100.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PORTION LYING WEST OF THE EAST LINE OF COLUMBIA AVENUE, AS CONVEYED TO THE CITY OF MARYSVILLE BY DEED RECORDED UNDER AUDITOR'S FILE NO. 9403020284, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

SCHEDULE B, PART II, EXCEPTIONS

1. EASEMENT(S) GRANTED TO THE CITY OF MARYSVILLE FOR WATER PIPELINE OR LINES, AS GRANTED IN DOCUMENT RECORDED MARCH 6, 1989 UNDER RECORDING NO. 2091332.
AFFECTS: SOUTHWESTERLY PORTION OF SAID PREMISES AND OTHER PROPERTY
2. EASEMENT(S) GRANTED TO THE CITY OF MARYSVILLE FOR SEWER PIPELINE OR LINES, AS GRANTED IN DOCUMENT RECORDED MAY 6, 1989 UNDER RECORDING NO. 2091342.
AFFECTS: WESTERLY PORTION OF SAID PREMISES
3. POWER OF ATTORNEY AND AGREEMENT NOT TO PROTEST FORMATION OF LOCAL IMPROVEMENT DISTRICT FOR ROAD IMPROVEMENTS INCLUDING THE TERMS, COVENANTS AND PROVISIONS THEREOF, RECORDED OCTOBER 11, 1989 UNDER RECORDING NO. 891010348.

SURVEYOR'S CERTIFICATE:

TO (i) WILLIAMS INVESTMENTS, ITS SUCCESSORS AND ASSIGNS, (ii) CHICAGO TITLE TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 6, 7, 8, 9 AND 13 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON DECEMBER 13, 2019.

JOANNE M. SWANSON, PLS., CF625
CERTIFICATE NO. 34671

DATE

A.L.T.A./N.S.P.S. LAND TITLE SURVEY
for
WILLIAMS INVESTMENTS
IN THE SE 1/4 OF THE NW 1/4 OF SECTION 28, T.30N., R.05E., W.M.
SNOHOMISH COUNTY, WASHINGTON

ORCA Land Surveying
3605 COLBY AVENUE, EVERETT, WA 98201
425-259-3400 FAX: 425-259-1616

JOB NO. 2019-119
DATE: 1/8/2020
DWG BY: JMS, ARC
F.B. 1911, PG. 76-79
F.B. 1910, PG. 142-143
SHEET 1 of 1

Index #9

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

AGENDA ITEM:	
Strawberry Court (PA20-041) – Sewer Easement Relinquishment	
PREPARED BY:	DIRECTOR APPROVAL:
Ken McIntyre, Development Services Manager	<i>KE for KN</i>
DEPARTMENT:	
Public Works	
ATTACHMENTS:	
<ol style="list-style-type: none"> 1. Easement Relinquishment Document 2. AFN 2091342 – Easement for sewer pipeline 	
BUDGET CODE:	AMOUNT:
SUMMARY:	

WK Investments, LLC has submitted a land use application for a parcel located at 1060 Columbia Avenue, proposing a 3-story apartment building with 42 residential units. The parcel contains an existing easement recorded in April of 1969 for the stated purpose of a sewer pipeline.

The City does not currently operate a sewer pipeline within this easement. The City does operate a sewer main within the public right-of-way (Columbia Ave), roughly 40-ft west of the project's front boundary. Because this easement is no longer used by the City, the applicant is requesting that the City relinquish the sewer easement encumbrance. The Public Works Department has reviewed the request, and recommends that the City Council authorize the Mayor to execute and record the attached easement relinquishment document.

RECOMMENDED ACTION:

Staff recommends that Council authorize the Mayor to execute the attached relinquishment document and record it with the Snohomish County Auditor.

RECOMMENDED MOTION:

I move to authorize the Mayor to execute the easement relinquishment document and record it with the Snohomish County Auditor.

WHEN RECORDED RETURN TO:
 CITY OF MARYSVILLE
 1049 STATE AVENUE
 MARYSVILLE, WA 98270

RELINQUISHMENT OF EASEMENT

LEGAL DESCRIPTION:

ABBREVIATED: PTN SE1/4 NW1/4, STR 28-30N-5E, W.M.

FULL: SEE EXHIBIT B

TAX PARCEL NUMBER(S): 300528-002-203-00

GRANTOR: City of Marysville, a municipal corporation

GRANTEE: WK Investments LLC, a Washington limited liability company

CROSS REF: 2091342

WHEREAS, the City of Marysville, a municipal corporation of the State of Washington (“Marysville”), is the grantee of that certain Easement for a sewer pipeline dated April 15, 1969 and recorded under Auditors File No. 2091342, records of Snohomish County, Washington, attached hereto as Exhibit A (the “Easement”); and

WHEREAS, the Easement burdens the property described in Exhibit B; and

WHEREAS, Marysville desires to relinquish, vacate, and release the Easement.

NOW, THEREFORE, the City of Marysville relinquishes, vacates, and releases the pipeline easement recorded under Auditors File No. 2091342 records of Snohomish County.

DATED this _____ day of _____, 20_____.

CITY OF MARYSVILLE

By: _____
Jon Nehring, Mayor

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Jon Nehring is the person who appeared before me and said person acknowledged that he signed this instrument as the Mayor of City of Marysville and acknowledge it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 20__

(Notary Signature)

(Print Name)

NOTARY PUBLIC in and for the State of Washington
Residing at (city): _____
My commission expires: _____

EXHIBIT A

The east 20 feet of the west 45 feet of the below described property:

The W 1/2 of the E 1/2 of the N 100 feet of the following: beginning at the SE ¼ of the NE ¼ of Sec 28, T 30 N, R 5 E, WM; thence N 197.6 feet to a point on the N line of 10th Street; thence N 630.48 feet to an iron pipe; thence W 902 feet more or less to the east margin of State Avenue; thence S along the E line of State Avenue 634.75 feet to the N line of 10th Street; thence E to point of beginning, except for Alder Avenue

EXHIBIT B

That portion of the Southeast Quarter of the Northwest Quarter of Section 28, Township 30 North, Range 5 East of the Willamette Meridian, described as follows:

Commencing at the Southeast corner of said subdivision;

Thence North 0°03'30" East along the East line of said subdivision for a distance of 197.60 feet to a point on the North line of 10th Street in the Town of Marysville produced East and the centerline of Alder Street;

Thence continue North 0°03'30" East along said East line, also being the centerline of Alder Street for a distance of 630.48 feet to an iron pipe, said iron pipe being on the South line produced East of the Plat of Fauvers Addition to Marysville;

Thence North 89°31'05" West along said line for a distance of 253.86 feet to the Northeast corner of that certain tract of land as conveyed in Auditor's File No. 1254372, said Northeast corner also being the true point of beginning;

Thence continue North 89°31'05" West for a distance of 482.81 feet to a point 180.00 feet East of the East line of State Street;

Thence South 0°04'00" West for 250.01 feet along a line being parallel to State Street;

Thence South 89°31'05" East for a distance of 255.06 feet;

Thence South 0°03'30" West for a distance of 50.00 feet to the South line of that certain tract of land conveyed in Auditor's File No. 1282463;

Thence South 89°31'05" East along the South line of said tract for a distance of 217.79 feet to the Southeast corner thereof;

Thence North 0°03'30" East along the East line thereof for a distance of 200.01 feet to the Northeast corner thereof, also being the Southeast corner of that certain tract of land as conveyed in Auditor's File No. 1254372;

Thence North 0°03'30" East along the East line of said tract for a distance of 100.00 feet to the true point of beginning;

Except that portion lying West of the East line of Columbia Avenue as conveyed to the City of Marysville by deed recorded under Auditor's File No. 9403020284, records of Snohomish County, Washington.

Situate in the County of Snohomish, State of Washington.

Parcel ID: 300528-002-203-00

2091342

D. C. BOGARD GRANTOR

NO. _____

to

CITY OF MARYSVILLE, WASHINGTON, GRANTEE

EASEMENT FOR PIPE LINE

46 B
85 C

The undersigned, Grantors, for and in consideration of One Dollar (\$1.00) and the Grantee's undertaken to construct a new drainage ditch within the easement, the receipt of which is hereby acknowledged, by these presents bargain, sell, transfer and convey unto the City of Marysville, Washington, a municipal corporation of the State of Washington Grantee, an easement over, across, along and under the following described property situated in Snohomish County, State of Washington:

The W 1/2 of E 1/2 of the N 100 feet of the following: beginning at the SE 1/4 of the NW 1/4 of Sec 28, T 30 N, R 5 E WM; thence N 197.6 feet to a point on the N line of 10th Street; thence N 630.48 (See page 2) Said easement shall occupy and include

The east 20 feet of the west 45 feet of the above described tract.

and shall be for the purpose of installing, constructing, maintaining, operating, repairing and replacing a sewer pipeline or lines and all necessary connections and appurtenances thereto, together with the right of ingress and egress to, from and across said described property for the foregoing purposes. Said easement shall also include the right to construct cuts or fills within the easement granted and cut or fill slopes within the property of the Grantor immediately adjacent to said easement, provided that Grantee shall not be reasonable for the type of earth from which they are constructed.

It is further provided that Grantee shall repair and restore any private improvements which are disturbed or damaged in either the original installation or in maintenance of said pipeline or lines to their original condition, as near as may be, and that upon completion of construction Grantee shall remove all debris and leave the easement area and adjacent slopes in a neat and orderly condition.

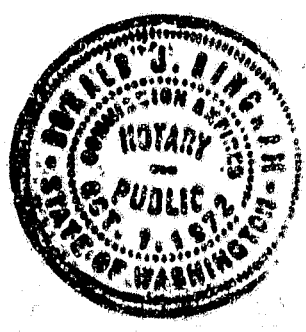
It is further provided that the Grantor shall be responsible for moving his existing fence to the east edge of the easement prior to the beginning of construction, if the fence is located within the proposed easement.

Dated this 15th day of April 1969
[Signature]
D. C. Bogard

STATE OF WASHINGTON)
COUNTY OF Snohomish 33

On this 15th day of April 1969, before me, the undersigned, a NOTARY PUBLIC in and for the State of Washington, duly commissioned and sworn, personally appeared Mr. D. C. Bogard & City of Marysville to me known to be the individual(s) described in and who executed the foregoing instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.



[Signature]
NOTARY PUBLIC in and for the State of Washington
residing at Bainbridge, Wash.

NO SALES TAX
REQUIRED

MAY 6 - 1969

OFFICIAL RECORDS

[Signature]
313 PAGE 105

PAGE 2

feet to an iron pipe; thence W 902 feet
more or less to the east margin of State
Avenue; thence S along the E line of
State Avenue 634.75 feet to the N line
of 10th Street; thence E to point of
beginning except for Alder Avenue

OFFICIAL RECORDS

2091342
CLERK
CITY OF
MARIETTA
MAY 6 AM 10 44

STANLEY CURRISS, CLERK
SUMNER COUNTY, MISS.
RECEIVED

St. Dept.

*City Hall Park
Marietta, Ga.*

300

OFFICIAL RECORDS

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Update
Index #10

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: March 8, 2021

AGENDA ITEM:	
Proposed Ordinance Consenting to Change of Control of Astound Broadband, LLC	
PREPARED BY:	DIRECTOR APPROVAL:
Burton Eggertsen	
DEPARTMENT:	
Legal	
ATTACHMENTS:	
Proposed Ordinance	
BUDGET CODE:	AMOUNT:
SUMMARY:	

Astound Broadband, LLC has a franchise to operate a cable television system in the City. Stonepeak Infrastructure Holdings, a Delaware limited liability company, has entered into an agreement to acquire Radiate Holdings L.P., a Delaware limited partnership, which is a parent company of Astound Broadband. Stonepeak has requested that the City consent to the change of indirect control of Astound Broadband.

Stonepeak has provided the City information required by FCC regulations, and City staff has reviewed the legal, technical, and financial qualifications of Stonepeak. Based on this review, City staff does not anticipate that the change of control will negatively impact the provision of television cable services in the City.

RECOMMENDED ACTION:

Staff recommends the City Council consider adopting the ordinance consenting to the change of control of Astound Broadband LLC

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON,
CONSENTING TO CHANGE OF CONTROL OF ASTOUND
BROADBAND, LLC.**

WHEREAS, Astound Broadband, LLC (“Franchisee”) owns, operates, and maintains a telecommunications system in the City of Marysville (the “City”) pursuant to a telecommunications franchise agreement (the “Franchise”), a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, the Franchisee is the current duly authorized holder of the Franchise; and

WHEREAS, pursuant to an Agreement and Plan of Merger (“Agreement”), funds associated with Stonepeak Infrastructure Partners (“Acquiror”), a Delaware limited liability company, will purchase 100% of the indirect ownership interests of Radiate Holdings, L.P., a Delaware limited partnership (which owns 100% of the indirect ownership interests in Franchisee), and, as a result, the indirect control of Franchisee will change (the “Change of Control”); and

WHEREAS, the Franchisee and Acquiror have requested the consent of the City to the Change of Control, and have provided the City with all information necessary to facilitate a decision by the City (collectively, the “Application”); and

WHEREAS, the City has reviewed the Application.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The City accepts the Application and consents to the Change of Control.

SECTION 2. The City confirms that the Franchise is valid and outstanding and in full force and effect and there are no defaults under the Franchise. Subject to compliance with the terms of this Ordinance, all action necessary with respect to the Change of Control has been duly and validly taken.

SECTION 3. 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 _____, 2021.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
TINA BROCK, DEPUTY CITY CLERK

Approved as to from:

By _____
JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date (5 days after publication): _____

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. 3067

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

With a required copy to: City of Marysville Attn: City Attorney 1049 State Avenue Marysville, WA 98270	
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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 9 day of

October, 2017.

CITY OF MARYSVILLE

By: _____


Jon Nehring, Mayor

Attest:

By: Tina Brock
April O'Brien, Deputy City Clerk
Tina Brock

Approved as to form:

By: [Signature]
Jon Walker, City Attorney

Date of Publication: October 14, 2017

Effective Date: October 19, 2017
(5 days after publication)

Index #11

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

CITY COUNCIL MEETING DATE: March 8, 2021

AGENDA ITEM:	
Proposed Ordinance Consenting to Change of Control of WaveDivision I, LLC	
PREPARED BY:	DIRECTOR APPROVAL:
Burton Eggertsen	
DEPARTMENT:	
Legal	
ATTACHMENTS:	
Proposed Ordinance	
BUDGET CODE:	AMOUNT:
SUMMARY:	

WaveDivision I, LLC has a franchise to operate a cable television system in the City. Stonepeak Infrastructure Holdings, a Delaware limited liability company, has entered into an agreement to acquire Radiate Holdings L.P., a Delaware limited partnership, which is a parent company of WaveDivision I. Stonepeak has requested that the City consent to the change of indirect control of WaveDivision I.

Stonepeak has provided the City information required by FCC regulations, and City staff has reviewed the legal, technical, and financial qualifications of Stonepeak. Based on this review, City staff does not anticipate that the change of control will negatively impact the provision of television cable services in the City.

<p>RECOMMENDED ACTION: Staff recommends the City Council consider adopting the ordinance consenting to the change of control of WaveDivision I, LLC.</p>

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON,
CONSENTING TO CHANGE OF CONTROL OF WAVEDIVISION I, LLC**

WHEREAS, WaveDivision I, LLC (the “Franchisee”) owns, operates, and maintains a cable television system in the City of Marysville (the “City”) pursuant to a cable television franchise agreement (the “Franchise”), a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, the Franchisee is the current duly authorized holder of the Franchise; and

WHEREAS, pursuant to an Agreement and Plan of Merger (“Agreement”), funds associated with Stonepeak Infrastructure Partners (“Acquiror”), a Delaware limited liability company, will purchase 100% of the indirect ownership interests of Radiate Holdings, L.P., a Delaware limited partnership (which owns 100% of the indirect ownership interests in Franchisee), and, as a result, the indirect control of Franchisee will change (the “Change of Control”); and

WHEREAS, the Franchisee and Acquiror have requested the Consent of the City, have filed an FCC Form 394 with the City, and have provided the City with all information necessary to facilitate a decision by the City (collectively, the “Application”) ; and

WHEREAS, the City has reviewed the Application.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The City accepts the Application and consents to the Change of Control.

SECTION 2. The City confirms that the Franchise is valid and outstanding and in full force and effect and there are no defaults under the Franchise. Subject to compliance with the terms of this Ordinance, all action necessary with respect to the Change of Control has been duly and validly taken.

SECTION 3. 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 _____, 2021.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
TINA BROCK, DEPUTY CITY CLERK

Approved as to from:

By _____
JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date (5 days after publication): _____

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. 2993

AN ORDINANCE OF THE CITY OF MARYSVILLE GRANTING
A FRANCHISE TO WAVEDIVISION I, LLC TO OPERATE A
CABLE TELEVISION SYSTEM IN CITY RIGHTS-OF-WAY.

This Cable Television Franchise (“Franchise”) is entered into in Marysville, Washington, this 22 day of June, 2015, by and between the City of Marysville, Washington a municipal corporation, (hereinafter “City”) and WaveDivision I, LLC, a Washington limited liability company (hereinafter “Grantee”). City and Grantee are sometimes referred to hereinafter collectively as the “parties.”

WHEREAS, Grantee has applied to the City for a nonexclusive franchise to construct, maintain, operate, replace and repair a Cable System in, on, across, over, along, under or through Rights-of-Way within the Franchise Area; and

WHEREAS, the City has considered the financial, technical and legal qualifications of Grantee, and has determined that Grantee’s plans for constructing, operating and maintaining its Cable System are adequate, in a full public proceeding affording due process to all concerned; and

WHEREAS, the public has had adequate notice and opportunity to comment on Grantee’s proposal to provide cable television service within the Franchise Area; and

WHEREAS, the City has a legitimate and necessary regulatory role in ensuring the availability of state-of-the-art cable communications service, the high technical capability and reliability of cable systems, the availability of local programming (including educational and governmental access programming) and quality customer service; and

WHEREAS, diversity in cable service and local and non-local programming is an important policy goal and the Grantee’s Cable System should offer a broad range of programming services; and

WHEREAS, flexibility to respond to changes in technology and subscriber interests within the cable service market should be an essential characteristic of this Franchise and the Grantee will take advantage of new technology to benefit subscribers and citizens as such technology becomes available; and

ORIGINAL

WHEREAS, the City is authorized by applicable law to grant one or more nonexclusive franchises to construct, operate and maintain a cable system or systems within the boundaries of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. DEFINITIONS

For the purposes of this Franchise the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent 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. Words not defined shall be given their common and ordinary meaning. The word “shall” is always mandatory and not merely directory.

1.1 “Access” means the availability for noncommercial use by various governmental and educational agencies, institutions, organizations, and other groups and individuals in the community, including the City and its designees, of particular channels on the Cable System to receive and distribute programming to Subscribers, as permitted under applicable law.

(A) “Educational Access” means Access where Schools are the primary users having editorial control over programming and services.

(B) “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

1.2 “Access Channel” means any channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming.

1.3 “Activation” or **“Activated”** means the status of any capacity on or part of the Cable System wherein the use of that capacity or part thereof may be made available without further installation of system equipment other than Subscriber premise equipment, whether hardware or software.

1.4 “Affiliate” is defined by the Cable Act at 47 U.S.C. § 522(2).

1.5 “Bad Debt” means amounts lawfully owed by a Subscriber and accrued as revenues on the books of Grantee, but not collected after reasonable efforts by Grantee.

1.6 “Basic Service” means the Cable Service tier which includes, at a minimum, the retransmission of local television broadcast signals and Access programming.

- 1.7 “Broadcast Signal”** means a television or radio signal transmitted over the air to a wide geographic audience, and received by an antenna, microwave, satellite dishes or any other means.
- 1.8 “Cable Act”** means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, and any future amendments thereto.
- 1.9 “Cable Internet Service”** means any service offered by Grantee whereby Persons receive access to the Internet through the Cable System.
- 1.10 “Cable Operator”** is defined by the Cable Act at 47 U.S.C. § 522(5).
- 1.11 “Cable Service”** is defined by the Cable Act at 47 U.S.C. § 522(6).
- 1.12 “Channel”** is defined by the Cable Act at 47 U.S.C. § 522(4).
- 1.13 “City”** means the City of Marysville, Washington, a municipal corporation.
- 1.14 “City Code”** means the ordinances of the City of Marysville having general applicability, which are codified as the Marysville Municipal Code.
- 1.15 “Connection”**, with regard to connections to public buildings, means installation of fiber optic or coaxial cable or other System related facilities through the outer wall of the building leaving adequate excess space to permit further connection to other facilities, plant or cable within the building.
- 1.16 “Designated Access Provider”** means the entity or entities designated by the City to manage or co-manage Access Channels and facilities. The City may be a Designated Access Provider.
- 1.17 “Downstream”** means carrying a transmission from the Headend to remote points on the System or to interconnection points on the System.
- 1.18 “Dwelling Unit”** means any residential building, or each portion thereof that has independent living facilities, including provisions for cooking, sanitation and sleeping and that is designed for residential occupancy.
- 1.19 “Expanded Basic Service”** means cable programming services not included in the Basic Service and excluding, for example, premium or pay-per-view services.
- 1.20 “FCC”** means the Federal Communications Commission or its lawful successor.

1.21 “Fiber Optic” means a transmission medium of optical fiber cable, along with all associated electronics and equipment capable of carrying Cable Service by means of electric light wave impulses.

1.22 “Franchise” means the document in which this definition appears, which is executed between the City and Grantee, containing the specific provisions of the authorization granted and the contractual agreement created hereby and as defined in 47 U.S.C. § 522(9).

1.23 “Franchise Area” means the depicted area on Exhibit A (the “Initial Area”), including any areas immediately adjacent to the Initial Area annexed by the City during the term of this Franchise, or that may be added to the Franchise Area during the term pursuant to Section 12.

1.24 “Gross Revenues” means any and all revenue derived directly or indirectly by the Grantee, or by Grantee's Affiliates, from the operation of Grantee's Cable System to provide Cable Services in the Franchise Area. Gross Revenues include, by way of illustration and not limitation, monthly fees charged Subscribers for Cable Services including Basic Service, any expanded tiers of Cable Service, other tiers of Cable Service, Premium Services; Cable Service installation, disconnection, reconnection and change-in-service fees, Leased Access Channel fees, Cable Service lease payments to the Cable System, late fees and administrative fees; payments or other consideration received by the Grantee from programmers for carriage of Cable Services on the Cable System and accounted for as revenue under GAAP; revenues from rentals of converters or other Cable System equipment, advertising sales revenues; the fair market value of consideration received by the Grantee for use of the Cable System to provide Cable Service and accounted for as revenue under GAAP; revenues from program guides, revenue from Cable Internet Service to the extent that service is considered a Cable Service under federal or State law, additional outlet fees, Franchise Fees, revenue from interactive services to the extent they are considered Cable Services under federal or State law, revenue from the sale or carriage of other Cable Services, and revenues from home shopping. Gross Revenues shall not include (i) Bad Debt, provided, however, that all or part of any such Bad Debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected; (ii) the capital advances and Capital Contribution referenced in Sections 9.6 and 9.7; or (iii) any taxes on services furnished by the Grantee which are imposed directly on any Subscriber or user by the State, City or other governmental unit and which are collected by the Grantee on behalf of said governmental unit. The Franchise Fees are not such a tax, and are therefore included in Gross Revenues.

1.25 “Headend” means any facility for signal reception and dissemination on the System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors and other related equipment.

1.26 “Interconnect” or “Interconnection” means the linking of the System with another contiguous cable system, including technical, engineering, physical, financial and other necessary components to accomplish, complete and adequately maintain such linking, in a manner to permit the transmission and receiving of Access programming between the System and other cable systems.

1.27 “Leased Access Channel” means any Channel or portion of a Channel commercially available for programming in accordance with Section 612 of the Cable Act.

1.28 “Locally Scheduled Original Programming” means Government Access or Educational Access programming that is created by the City or its Designated Access Provider(s) including edited coverage of live programming. Any such programming shall only be considered Locally Scheduled Original Programming for the first two (2) cablecasts of same (initial airing and first repeat). Additional cablecasts of the same programming shall no longer be deemed Locally Scheduled Original Programming. Automated Video Programming filler, such as cablecasts of highways and roads, AM/FM Radio programming, NASA or video bulletin boards, does not constitute Locally Scheduled Original Programming.

1.29 “Noncommercial” means, in the context of Access Channels, that particular products and services are not promoted or sold. This shall not be interpreted to prohibit an Access Channel operator or programmer from soliciting and receiving financial support (i.e., fundraising) to produce and transmit programming on an Access Channel, or from acknowledging a contribution.

1.30 “Pay-Per-View Service” or “Premium Service” means Video Programming or other programming service choices (such as movie channels) offered to Subscribers on a per-channel, per-program or per-event basis.

1.31 “Person” means any individual, sole proprietorship, partnership, joint venture, association, corporation or limited liability entity, or any other form of entity or organization.

1.32 “Right-of-Way” or “Rights-of-Way” means land acquired or dedicated to the public or hereafter dedicated to the public for public streets or roads, highways, avenues, lanes, alleys, bridges, sidewalks, easements and other similar public property located within the Franchise Area.

1.33 “School” means any state accredited public educational institution including, for example, primary and secondary schools (K-12).

1.34 “State” means the State of Washington.

1.35 “Subscriber” means any Person who lawfully receives Cable Service provided by Grantee by means of the System with Grantee’s express permission.

1.36 “System” or “Cable System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves Subscribers without using any public Right-of-Way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications

Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (4) an open video system that complies with 47 U.S.C. 573 and federal regulations; or (5) any facilities of any electric utility used solely for operating its electric utility systems. When used herein, System or Cable System refers to Grantee's Cable System in the Franchise Area.

1.37 "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. 153(50)).

1.38 "Telecommunications Service" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. 153(53)).

1.39 "Tier" means a category of Cable Services provided by the Grantee for which a separate periodic rate is charged.

1.40 "Upstream" means carrying a transmission to the headend from remote points on the System or from Interconnection points on the System.

1.41 "Video Programming" is defined by the Cable Act at 47 U.S.C. § 522(20).

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The City hereby grants to Grantee a nonexclusive and revocable authorization to make reasonable and lawful use of the Rights-of-Way within the Franchise Area to construct, operate, maintain, reconstruct and upgrade a System for the purpose of providing Cable Services, subject to the terms and conditions set forth in this Franchise. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Grantee, through this Franchise, is granted the right to operate its System using the Rights-of-Way within the Franchise Area in compliance with all lawfully enacted City Codes and procedures. Additionally, nothing in this Franchise shall be deemed to waive the requirements of ordinances of general applicability lawfully enacted, or hereafter lawfully enacted, by the City. Grantee reserves the right to challenge provisions of any ordinance or other enactment of the City that conflicts with its contractual rights hereunder.

(C) This Franchise shall not be interpreted to prevent the City from lawfully imposing additional conditions, including additional compensation conditions for use of the Rights-of-Way, should Grantee provide service other than Cable Service.

(D) Grantee promises and guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee offering Cable Service in the Franchise Area, or directly involved in the management or operation of the System in the Franchise Area, will also comply with the terms and conditions of this Franchise.

(E) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

(2) Any permit, agreement or authorization required by the City for Rights-of-Way users in connection with operations on or in Rights-of-Way or public property including, by way of example and not limitation, street cut permits;

(3) Any permits or agreements for occupying any property of the City other than Rights-of-Way; or

(4) Any necessary or appropriate permits or agreements allowing Grantee to use, occupy or access property belonging to any Person other than the City, such as (by way of example only) permits and agreements allowing Grantee to place devices or equipment on poles, in conduits or in or on other structures that do not belong to Grantee.

(F) This Franchise is intended to convey limited rights and interests only as to those Rights-of-Ways in which the City has an actual interest. It is not a warranty of title or interest in any Rights-of-Way; it does not provide the Grantee with any interest in any particular location within the Rights-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

(G) This Franchise expressly authorizes Grantee to provide only Cable Services, and to construct, operate or maintain a Cable System. This Franchise is not a bar to imposition of any lawful conditions on Grantee with respect to non-Cable services, Telecommunications Services or information services, whether similar, different or the same as the conditions specified herein. This Franchise does not relieve Grantee of any obligation it may have to obtain from the City an authorization to provide non-Cable services, Telecommunications Services or information services or relieve Grantee of its obligation to comply with any such authorization(s) that may be lawfully required. However, this Franchise shall not be read as a concession by Grantee that it needs authorization to provide non-Cable, Telecommunications Services or information services.

2.2 Use of Rights-of-Way

(A) Subject to the City's supervision and control, Grantee may erect, install, construct, repair, replace, reconstruct, and retain in, on, over, under, upon, across, and along the Rights-of-Way within the Franchise Area, such wires, cables (both coaxial and Fiber Optic),

conductors, ducts, conduit, vaults, manholes, amplifiers, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the System for the provision of Cable Services within the Franchise Area.

(B) Grantee must follow City-established requirements for placement of System facilities in the Rights-of-Way, and must install System facilities in a manner that minimizes interference with the use of the Right-of-Way by others, including others that may be installing communications facilities. Within parameters reasonably related to the City's role in protecting the public health, safety and welfare, the City may require that System facilities be installed at a particular time, at a specific place or in a particular manner as a condition of access to a particular Right-of-Way; may deny access if Grantee is not willing to comply with the City's requirements; and, subject to giving Grantee prior written notice and an opportunity to take the requisite corrective action, may remove, or require removal of, any facility that is not installed in compliance with the requirements established by the City, or which is installed without prior City approval and charge Grantee for all of the costs associated with removal; and may require Grantee to cooperate with others to minimize adverse impacts on the Rights-of-Way through joint trenching and other arrangements.

2.3 Duration

The term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be ten (10) years from the Effective Date of this Franchise, unless terminated, reduced or otherwise amended as hereinafter provided.

2.4 Effective Date

(A) 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.

(B) The "Effective Date" of this Franchise shall be the date on which it is accepted in writing by Grantee.

2.5 Franchise Nonexclusive; Grant of Other Franchises

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements, permits or licenses granted by the City to any Person to use any property for any purpose whatsoever, including the right of the City to use same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The City may at any time grant authorization to use the Rights-of-Way for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for cable systems as the City deems appropriate.

2.6 Grant of Other Franchises

In the event the City enters into a franchise, permit, license, authorization or other agreement of any kind with any other Person or entity other than the Grantee after the Effective Date of this Franchise to enter into the City's Rights-of-Way for the purpose of constructing or operating a cable system or providing Cable Service to any part of the Franchise Area, in which the Grantee

is providing Cable Service under the terms and conditions of this Franchise or is required to extend Cable Service to under the provisions of this Franchise, the terms and conditions thereof, taken as a whole, shall be neither more favorable nor less burdensome to such Person than those contained herein in order that one cable operator not be granted an unfair competitive advantage over another.

2.7 Familiarity with Franchise

Grantee acknowledges and warrants by acceptance of the rights, privileges and agreement granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein. The Grantee further acknowledges and states that it has fully studied and considered all requirements and provisions of this Franchise, and finds that the same are commercially practicable at this time.

2.8 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise, subject to applicable law; and (3) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

2.9 Police Powers

Grantee's rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary for the safety, health and welfare of the public, and Grantee agrees to comply with all such applicable laws, ordinances and regulations lawfully enacted pursuant to the police powers of the City, or hereafter enacted in accordance therewith, by the City. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the City's police powers shall be resolved in favor of the latter, provided that such ordinances shall be reasonable and not destructive of the rights granted in this Franchise. Grantee shall pay those costs (in accordance with applicable law) associated with moving its System within the Right-of-Way as a result of the City's lawful exercise of its police powers.

SECTION 3. FRANCHISE FEES AND FINANCIAL CONTROLS

3.1 Franchise Fees

As compensation for the use of the Rights-of-Way, Grantee shall pay as a "Franchise Fee" to the City, throughout the duration of this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues. Accrual of such Franchise Fees shall commence as of the Effective Date of this Franchise.

3.2 Payments

Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding quarter. Each payment shall be due and payable no later than thirty (30) days after the end of the preceding quarter.

3.3 Acceptance of Payment

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee. However, the period for recovery of Franchise Fees payable hereunder is limited to six (6) years from the date on which payment by the Grantee was due.

3.4 Franchise Fee Reports

Each payment shall be accompanied by a written report to the City on a standard form utilized by Grantee, verified by an authorized representative of Grantee, containing an accurate statement in summarized form, as well as in detail, of Grantee's Gross Revenues and the computation of the payment amount.

3.5 Audits

On an annual basis, upon thirty (30) days' prior written notice, the City shall have the right to conduct an independent audit of Grantee's records reasonably related to the enforcement of this Franchise and to recompute any amounts determined to be payable under this Franchise. If Grantee cooperates in making all relevant records available to the City, the City will attempt to complete each audit within six (6) months, and the audit period shall not be any greater than the previous six (6) years. Any additional amounts due to the City as a result of the audit shall be paid within forty-five (45) days following written notice to the Grantee by the City, which notice shall include a copy of the audit findings. If the audit shows that Franchise Fees have been underpaid, by five percent (5%) or more in a calendar year, Grantee shall pay the City's actual cost of the audit up to a maximum amount of twenty thousand dollars (\$20,000). Grantee's obligation to retain records related to a Franchise Fee audit shall expire six (6) years after each Franchise Fee payment has been made, or should have been made, to the City.

3.6 Financial Records

Grantee agrees to meet with a representative of the City upon request to review Grantee's methodology of record-keeping, financial reporting, the computing of Franchise Fee obligations and other procedures, the understanding of which the City deems necessary for reviewing reports and records that are relevant to the enforcement of this Franchise.

3.7 Late Payments

In the event any payment due the City is not timely made, Grantee shall pay, in addition to the amount due, interest at the rate established for judgments by the Snohomish County Superior Court, until the date the City receives the payment.

3.8 Underpayments

If a Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay, in addition to the amount due, interest at the rate established for judgments by the Snohomish County Superior Court, compounded daily, calculated from the date the underpayment was originally due until the date the City receives the payment.

3.9 Maximum Franchise Fees

The parties acknowledge that, at present, applicable federal law limits the City to collection of a Franchise Fee of five percent (5%) of Gross Revenues in a 12-month period. In the event that at any time throughout the term of this Franchise, the City is authorized to collect an amount in excess of five percent (5%) of Gross Revenues and the City elects to do so, then this Franchise shall be amended by the parties consistent with such change to provide that such excess amount shall be added to the Franchise Fee payments to be paid by Grantee to the City hereunder. Conversely, in the event that at any time throughout the term of this Franchise, the City may only collect an amount which is less than five percent (5%) of Gross Revenues for Franchise Fees due to a change in federal law, then this Franchise shall be amended by the parties consistent with such change to provide for such lesser percentage.

3.10 Additional Commitments Not Franchise Fees

No term or condition in this Franchise shall in any way modify or affect Grantee's obligation to pay Franchise Fees. Although the total sum of Franchise Fee payments and additional commitments set forth elsewhere in this Franchise may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, Grantee agrees that, except as otherwise provided by applicable law, the additional commitments herein are not Franchise Fees, nor are they to be offset or credited against any Franchise Fee payments due to the City, nor do they represent an increase in Franchise Fees to be passed through to Subscribers.

3.11 Alternative Compensation

In the event the obligation of Grantee to compensate the City through Franchise Fee payments is lawfully suspended or eliminated, in whole or part, then Grantee shall pay to the City compensation in accordance with applicable law.

3.12 Payment on Termination

If this Franchise terminates for any reason, the Grantee shall file with the City within ninety (90) calendar days of the date of the termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year. Within thirty (30) days of the filing of the certified statement with the City, Grantee shall pay any unpaid amounts as indicated. If the Grantee fails to pay its remaining financial obligations as required in this Franchise, the City may satisfy the same by utilizing the funds available in a surety bond, if any, or other security provided by the Grantee.

3.13 Tax Liability

The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise Fees under this Franchise shall not exempt Grantee from the payment of any other license fee, permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City. Any other license fees, taxes or charges shall be of general applicability in nature and shall not be levied against Grantee solely because of its status as a Cable Operator, or against Subscribers, solely because of their status as such.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

The City shall be vested with the power and right to administer and enforce the requirements of this Franchise and the regulations and requirements of applicable law, including the Cable Act, or to delegate that power and right, or any part thereof, to the extent permitted under law, to any agent in the sole discretion of the City.

Nothing in this Franchise shall expand or limit the City's right of eminent domain under State law.

The Grantee and the City shall be entitled to all rights and be bound by all changes in local, State and federal law that occur subsequent to the Effective Date of this Franchise. The Grantee and the City acknowledge that their rights and obligations under this Franchise are explicitly subject to all such changes.

4.2 Charges

All of Grantee's rates and charges related to or regarding Cable Services shall be subject to regulation by the City to the full extent authorized by applicable federal, State and local laws.

4.3 Cross Subsidization

Grantee shall comply with all applicable laws regarding rates for Cable Services and all applicable laws covering issues of cross subsidization.

4.4 No Rate Discrimination

All of Grantee's rates and charges shall be published (in the form of a publicly-available rate card), and shall be nondiscriminatory for all Persons of similar classes, under similar circumstances and conditions. Grantee shall permit Subscribers to make any in-residence connections the Subscriber chooses without additional charge and without penalizing the Subscriber therefor. However, if any in-home connection requires service from Grantee due to poor signal quality, signal leakage or other factors, caused by improper installation of such in-home wiring or faulty materials of such in-home wiring, the Subscriber may be charged appropriate service charges by Grantee. Nothing herein shall be construed to prohibit:

- (A) The temporary reduction or waiving of rates or charges in conjunction with valid promotional campaigns;
- (B) The offering of reasonable discounts to similarly situated Persons;
- (C) The offering of rate discounts for Cable Service to government agencies or educational institutions; or
- (D) The offering of bulk discounts for Multiple Dwelling Units.

The Grantee shall offer a discount to those individuals who are low income (determine according to City guidelines consistently applied to other City discounts) and who are also either permanently disabled or 62 years of age or older and who are the legal owner and resident of the Dwelling Unit. Such discounts will consist of at least thirty percent (30%) off of Basic Service (whether it is Basic Service only or combined with Expanded Basic Service or with a premium service), and Grantee is also encouraged to waive standard installation charges.

4.5 Rates

Upon request, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels, or portions of such Leased Access Channels, provided by Grantee. The schedule shall include a description of the price, terms and conditions established by Grantee for Leased Access Channels.

4.6 Late Fees

(A) For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that the Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and shall be applied in accordance with applicable local, state and federal laws.

(B) The Grantee's late fee and disconnection policies and practices shall be nondiscriminatory, and such policies and practices, and any fees imposed pursuant to this subsection, shall apply equally in all parts of the Franchise Area without regard to the neighborhood or income level of the Subscribers.

4.7 Reserved Authority

The City reserves all rights and authority arising from the Cable Act and any other relevant provisions of federal, state or local laws.

4.8 Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee or the City, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a material breach of this Franchise.

4.9 Performance Evaluations

(A) Evaluation sessions may be held upon request by the City, but no more frequently than once a year, throughout the term of this Franchise.

(B) All evaluation sessions shall be open to the public and shall be announced by the City at least two (2) weeks in advance, in a newspaper of general circulation in the City.

(C) Topics of discussion at any evaluation session may include, but are not limited to, Cable Service rates; Franchise Fees; liquidated damages; free or discounted Cable Services; application of new technologies; system performance; Cable Services provided; customer complaints; privacy; amendments to this Franchise; judicial and FCC rulings; line extension policies; and the City's or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

(D) During evaluations under this Franchise, Grantee shall fully cooperate with the City and shall provide such information and documents as the City may reasonably require to perform the evaluation.

SECTION 5. INDEMNIFICATION AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold harmless the City, its officers, officials, boards, commissions, agents and employees from any action or claim, damage, loss, liability, cost or expense, , including court and appeal costs and attorneys' fees and expenses, arising from any death, or injury, casualty or accident to a Person, equipment or property or arising out of or by reason of, the presence of or any construction, excavation, operation, maintenance, repair, reconstruction, upgrade, rebuild, upkeep or removal of the Cable System, by or for Grantee, its agents or its employees, or by reason of any neglect or omission of Grantee, it agents or its employees. Grantee shall consult and cooperate with the City while conducting its defense of the City.

(B) Procedures and Defense. The City shall give the Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. If a claim or action arises, the City or any other indemnified party shall then tender the defense of the claim to Grantee, which defense shall be at Grantee's expense. The City may participate in the defense of a claim and, in any event, Grantee may not agree to any settlement of claims financially affecting the City without the City's prior written approval, which approval shall not be unreasonably withheld.

(C) Grantee's Duties. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duties of defense and indemnification under this Section.

(D) Expenses. If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by Grantee. The City's expenses shall include all out-of-pocket expenses, such as consultants' fees, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants or any employees of the City or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Grantee.

5.2 Insurance Requirements

(A) General Requirement. Grantee must have adequate insurance during the entire term of this Franchise to protect the City against claims for death or injuries to Persons or damages to property or equipment which in any way relate to, arise from or are connected with Grantee's performance of its rights or obligations under this Franchise, or involve Grantee's System as installed in the Rights-of-Way pursuant to this Franchise. Grantee's insurance must

also cover the actions of Grantee's agents, representatives, contractors, subcontractors and their employees acting on behalf of Grantee under this Franchise.

(B) Minimum Insurance Limits. Grantee must keep insurance in effect in accordance with the minimum insurance limits herein set forth:

(1) Commercial General Liability: Two million dollars (\$2,000,000) aggregate limit per occurrence for bodily injury, personal injury and property damage;

(2) Automobile Liability: Two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage; and

(3) Employer's Liability: One million dollars (\$1,000,000).

(4) Excess Liability or Umbrella Coverage: Five million dollars (\$5,000,000).

(C) Endorsements.

(1) All policies shall contain, or shall be endorsed so that:

(a) The City shall be designated as an additional insured;

(b) The Grantee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, employees and agents. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, employees and agents shall be in excess of the Grantee's insurance and shall not contribute to it; and

(c) The policy shall contain a severability of interests provision. Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

(2) The insurance provided herein shall not be cancelled or the limits reduced so as to be out of compliance with the requirements of this Section without forty-five (45) days' written notice first being given to the City. If the insurance is cancelled Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in the amounts required, for the duration of this Franchise.

(D) Acceptability of Insurers. The insurance obtained by Grantee shall be placed with insurers with a Best's rating of no less than "A VII".

(E) Verification of Coverage. The Grantee shall furnish the City with a certificate or certificates of insurance. 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, and are to be provided to the City upon acceptance of this Franchise. The Grantee hereby warrants that its insurance policies satisfy the requirements of this Franchise.

5.3 Surety Bond

(A) If there is an uncured breach by Grantee of a material provision of this Franchise or a pattern of repeated violations of any provision(s) of this Franchise, then the City may request and Grantee shall establish and provide to the City, as security for the faithful performance by Grantee of all of the provisions of this Franchise, a surety bond from a financial institution satisfactory to the City in the amount of ten thousand dollars (\$10,000).

(B) If a surety bond is required pursuant to subsection (A), the surety bond shall then be maintained at that same amount throughout the remainder of the term of this Franchise.

(C) After the giving of notice to Grantee and expiration of any applicable cure period, the surety bond may be drawn upon by the City for purposes including, but not limited to, the following:

(1) Failure of Grantee 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 Grantee;

(3) Monetary remedies or damages assessed against Grantee as provided in this Franchise.

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

(E) Grantee shall have the right to appeal to the City Council for reimbursement in the event Grantee believes that the surety bond was drawn upon improperly. Grantee shall also have the right of judicial appeal if Grantee believes the surety bond has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the surety bond shall be returned to Grantee with interest, from the date of withdrawal at the rate established for judgments by the Snohomish County Superior Court.

5.4 Bonds

(A) Grantee shall comply with the bonding requirements provided for in the Marysville Municipal Code. Grantee may be required to obtain other additional bonds in accordance with the City's ordinary practices.

(B) Grantee's maintenance of the bond(s) shall not be construed to excuse unfaithful performance by Grantee or limit the liability of Grantee to the amount of the bond(s) or otherwise limit the City's recourse to any other remedy available at law or in equity.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

Grantee shall comply with Customer Service Standards as the same may be adopted and amended from time to time by the City Council. Grantee reserves the right to challenge any customer service standards which it believes are inconsistent with its contractual rights granted under this Franchise.

6.2 Subscriber Privacy

Grantee will comply with privacy rights of Subscribers in accordance with federal, State and local laws.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

The City shall have access to, and the right to inspect, any books and records of Grantee and its Affiliates which are necessary for the enforcement of the provisions of this Franchise. Grantee shall not deny the City access to any of Grantee's records on the basis that Grantee's records are under the control of any Affiliate or a third Person. The City may, in writing, request copies of any such records or books, and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One copy of all reports and records required under this or any other Section shall be furnished to the City at the sole expense of Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then Grantee may request that the City inspect them at Grantee's local office. If any books or records of Grantee are not kept in a local office and not made available in copies to the City upon written request as set forth above, and if the City determines that an examination of such records is necessary for the enforcement of this Franchise, then all reasonable travel expenses incurred in making such examination shall be paid by Grantee.

7.2 Confidentiality

The City agrees to keep confidential any proprietary or confidential books or records of Grantee to the extent permitted by law. Grantee shall be responsible for clearly and conspicuously identifying the records as confidential or proprietary, and shall provide a brief written explanation as to why such information is confidential or proprietary and how it may be treated as such under State or federal law. If the City receives a demand from any Person for disclosure of any information designated by Grantee as confidential, the City shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the Person demanding access to such information within a reasonable time.

7.3 Records Required

Grantee shall provide to the City, upon request:

- (A) A complete set of route maps showing the location of Cable System facilities in the Franchise Area;
- (B) A copy of all FCC filings issued by Grantee or its Affiliates which relate to the operation of the System in the Franchise Area;
- (C) A list of Grantee's Cable Services, rates and Channel line-up; and
- (D) A compilation of Subscriber complaints, actions taken and resolution, and a log of service calls.

Grantee shall make available, at Grantee's local office, for inspection, plans and as-built maps of the Cable System.

7.4 Submittal of Documents

Upon written request, Grantee shall submit to the City copies of any applications, notifications, communications and documents of any kind, submitted by Grantee or its Affiliates to any federal, State or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee's System within the Franchise Area. Grantee shall submit such documents to the City no later than forty-five (45) days after receipt of the City's request. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

7.5 Annual Reports

Upon written request by the City, Grantee shall submit to the City in a reasonable timeframe annually a written report, which shall include, but not necessarily be limited to, the following information:

- (A) A Gross Revenue statement for the preceding year and all deductions and computations for the period, and such statement shall be reviewed by a certified public accountant, who may also be the chief financial officer or controller of Grantee, prior to submission to the City;
- (B) A summary of the previous year's activities regarding the development of the Cable System, including, but not limited to, beginning and ending plant miles, any technological changes occurring in the Cable System and the number of Subscribers for each class of Cable Service (i.e., Basic, Expanded Basic Service, Premium, etc.);
- (C) A description of planned construction, if any, for the current year; and
- (D) An executive summary of Subscriber complaints received in the previous year.

7.6 False Statements

Any intentional false or misleading statement or representation in any report required by this Franchise shall be a material breach of this Franchise and may subject Grantee to all remedies, legal or equitable, which are available to the City under this Franchise or otherwise.

7.7 Failure to Report

The failure or neglect of Grantee to file any of the information required under this Franchise (not including clerical errors or errors made in good faith) may be deemed a breach of this Franchise.

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

Grantee shall provide at least the following initial broad categories of programming to the extent such categories are reasonably available:

- (A) Educational programming;
- (B) Sports;
- (C) General entertainment including movies;
- (D) Foreign language programming;
- (E) News, weather and information; and
- (F) Access programming.

8.2 Deletion of Broad Programming Categories

(A) Grantee shall not delete or so limit as to effectively delete any broad category of programming within its control without prior written notice to the City.

(B) In the event of a modification proceeding under federal law, the mix and quality of Cable Services provided by Grantee on the effective date of this Franchise must be maintained after any such modification.

8.3 Surveys

Upon request of the City, but not more frequently than once every three (3) years, the Grantee shall provide to the City written questions that it intends to use in upcoming surveys of customer satisfaction. The City may suggest new or modified questions, which the Grantee, in the reasonable exercise of its discretion, may add to the customer survey it conducts. Upon completion of the customer survey of Subscribers in the Franchise Area, Grantee shall provide the results thereof to the City. Nothing herein shall be construed to limit the right of the City to conduct its own surveys at its own expense.

8.4 Continuity of Service Mandatory

(A) It shall be the right of all Subscribers to continue to receive Cable Service from Grantee insofar as their financial and other obligations to Grantee are honored. The Grantee shall use reasonable efforts so as to ensure that all Subscribers receive continuous, uninterrupted Cable Service. For the purposes of this subsection, “uninterrupted” does not include short-term outages of the Cable System for upgrade construction, maintenance or testing.

(B) In the event a new Cable Operator acquires the Cable System in accordance with this Franchise, Grantee shall reasonably cooperate with the City and the new Cable Operator to maintain continuity of Cable Service to all Subscribers. During any transition period, Grantee shall be entitled to the revenues for any period during which it operates the Cable System, and shall be entitled to reasonable costs for its services, if such services are requested by the City, when it no longer operates the Cable System.

8.5 Obscenity

Grantee shall not transmit, or permit to be transmitted, over any Channel subject to its editorial control any programming which is obscene under applicable federal, State or local laws, statutes, regulations or standards now existing or hereafter adopted.

8.6 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, traps or filters to enable a Subscriber to control access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter.

8.7 New Technology

If there is a new technology which in the City’s opinion would enhance substantially the quality or quantity of programming available to Subscribers on the System, Grantee shall, at the request of the City, investigate the feasibility of implementing said technology and report to the City the results of such investigation.

8.8 Services for the Disabled

Grantee shall comply with the Americans With Disabilities Act and any amendments or successor legislation thereto.

SECTION 9. ACCESS

9.1 Access Channels

Upon the effective date of this Franchise and throughout the term hereof, Grantee shall make available at its expense:

One Governmental Access Channel for use by the City; and

One Educational Access Channel for use by the Lakewood School District.

Any Access Channels provided via digital or compressed video technology shall have at least the same transmission quality as is used to carry any of the commercial Channels that deliver programming on the System. The provision of Access Channels via digital or compressed video technology will not reduce the total number of Access Channels required herein.

If Grantee makes a change in its Cable System and related equipment and facilities, or in its signal delivery technology, which directly or indirectly affects the signal quality or transmission of Access programming, Grantee shall at its own expense take necessary technical steps and provide necessary technical assistance, including the acquisition of all necessary equipment and full training of Access personnel, to ensure that the capabilities of Access Channels are not diminished or adversely affected by such change. For example, this provision shall apply if Basic Service on the Cable System is converted from an analog to a digital format, such that the Access Channels must also be converted to a digital format in order to be received by Subscribers.

9.2 Characteristics of Access Channels

(A) Each Access Channel provided pursuant to Section 9 shall be subject to the following:

(1) Each Access Channel shall be viewable by every Subscriber as part of that Subscriber's service, without any additional service charge.

(2) It is the responsibility of the Designated Access Providers to provide Grantee with an upstream Access Channel signal at the termination panel hand-off point that meets or exceeds FCC technical standards, and Grantee shall deliver to Subscribers a downstream Access Channel signal that meets or exceeds FCC technical standards, and without material degradation. For purposes of this subsection, "material degradation" means where signal quality is noticeably degraded from that provided to Grantee at the demarcation point.

(3) The entire upstream Access Channel signal delivered to Grantee by a Designated Access Provider will be delivered to Subscribers. By way of example, if Designated Access Provider places closed captioning on its upstream Access Channel signal, Grantee shall deliver the Access Channel signal, including closed captioning, to its Subscribers.

(4) Subject to applicable law, Access Channels may be delivered to Subscribers in analog format or digital format provided that if Grantee elects to provide Access Channels in digital format while Grantee delivers some channels to its Subscribers in analog format, Grantee shall, at no additional cost to the Subscriber, provide digital-to-analog converters for the primary television set of each such Subscriber who requests such equipment to enable such Subscriber with analog-only television equipment to view the Access Channels carried in digital format.

(5) Within one hundred twenty (120) days following the commencement of carriage of any of the Access Channels in digital-only format or upon one hundred twenty

(120) days prior written notice from the City to Grantee, Grantee will commence carriage of one (1) of the Access Channels in high-definition format. The City may designate which of the Access Channels will be carried in high-definition format.

(6) For the elimination of doubt, Grantee will not be required under subsections (4) and (5) above to (i) transmit more than one (1) Access Channel in high-definition format, (ii) provide any equipment to the City to facilitate the creation, storage or distribution of any high-definition programming, or (iii) provide to Subscribers any equipment (other than the digital-to-analog converters described above) necessary to view the Access Channel in high-definition format.

9.3 Access Channel Video On Demand

Within ninety (90) days following request by the City, Grantee will set aside sufficient storage capacity on its video-on-demand (“VOD”) server to store up to thirty (30) hours of Access Channel programming. The City will have the obligation and shall bear all costs and expenses to format (i.e., encode the Access Channel programming in the appropriate VOD format along with the appropriate metadata to enable its use in Grantee’s VOD server) and transport the formatted Access Channel programming to Grantee’s VOD server via a transport mechanism that is commonly used in the cable television industry. At such time that the City provides formatted Access Channel programming to Grantee as described above, Grantee will make such programming available to Subscribers that have access to Grantee’s other VOD programming in a manner consistent with such other VOD programming and at no additional cost to such Subscribers. The City will be responsible for “refreshing” the Access Channel programming on a periodic basis.

9.4 Management and Control of Access Channels

(A) The City may authorize Designated Access Providers to control, operate and manage the use of any and all Access facilities provided by Grantee under this Franchise, including, without limitation, the operation of Access Channels. The City or its Designated Access Providers may formulate rules for the operation of the Access Channels, consistent with this Franchise. Nothing herein shall prohibit the City from authorizing itself to be a Designated Access Provider.

(B) Grantee shall cooperate with the City and Designated Access Providers in the use of the System and Access Channel related facilities for the provision of Access Channels. To the extent allowed by law, the City agrees to indemnify, save and hold harmless Grantee from and against any and all liability resulting from (i) the City’s provision of Access Channel signals and content to Grantee, and (ii) the City’s use of Access Channel related facilities.

9.5 Additional Access Channels

In addition to the Access Channels referenced in Section 9.1 above, the City may require Grantee to make available at no charge one (1) additional activated Access Channel when either of the Access Channels required by Section 9.1 are used for Locally Scheduled Original Programming at least forty-eight (48) hours per week between 10:00 A.M. and 10:00 P.M., Monday through Friday during any consecutive ten (10) week period (“Threshold Requirement”). The initial

showing and first repeat shall count towards the Threshold Requirement. To meet the Threshold Requirement, the City or Designated Access Provider must produce distinct Locally Scheduled Original Programming. Programming from either of the existing Access Channels cannot be included in the calculation of the Threshold Requirement of the other Access Channel.

Once the Threshold Requirement has been met, Grantee shall, within six (6) months following a written request by the City, provide an additional Access Channel for use by the City or its Designated Access Provider.

9.6 Location of Access Channels

Grantee will use reasonable efforts to minimize the movement of Access Channel assignments. Grantee shall use its best efforts to provide one hundred twenty (120) days advance written notice to the City and at least thirty (30) days advance written notice to Subscribers prior to any relocation of any Access Channel. In the event of Access Channel relocation, Grantee shall provide notice to Subscribers in the same manner as notice is provided for any other Channel relocation. In such event, the City or its Designated Access Provider may provide, at its expense, a bill insert regarding the Access Channel location change that Grantee shall include in Subscriber bills. Grantee shall provide, at its expense, a bill message on Subscriber bills.

9.7 Access Interconnections

Grantee shall Interconnect the Access Channels of the Cable System with the Access Channels of any other cable system not owned or operated by Grantee or an Affiliate of Grantee and providing Cable Service in the City if technically feasible and not financially burdensome to Grantee. Interconnections under this subsection shall be located at the City's Access Channel origination site or another mutually agreeable site.

9.8 Access Capital Advance

No later than forty-five (45) days after the Effective Date of this Franchise, Grantee shall pay to the City a capital advance in the amount of three thousand dollars (\$3,000). Additionally, at the beginning of year two of this Franchise, Grantee shall pay to the City another capital advance in the amount of three thousand dollars (\$3,000). These are advance payments of the Capital Contribution set forth in subsection 9.9. These advance payments of Capital Contributions may be used by the City for capital expenditures related to Access construction, renovation, equipment or facilities. These advance payments shall in no way be considered in lieu of Franchise Fees and shall not reduce in any way Franchise Fees owed to the City under this Franchise. To the extent allowed by federal law, these capital advances may be treated as an external cost by Grantee and itemized on Subscribers' bills.

9.9 Capital Contribution

(A) Commencing with the Effective Date of this Franchise, Grantee shall provide a capital contribution to the City for Access capital costs ("Capital Contribution") in an amount not to exceed \$0.75 per Subscriber per month throughout the term of this Franchise. As of the effective date of this Franchise, that figure shall be \$0.75 per Subscriber per month. The monthly amount may be reduced, as determined by the City Council. Grantee shall be entitled to retain the Capital Contribution up to the amounts advanced pursuant to subsection 9.8.

Thereafter, the Capital Contribution shall be paid quarterly to the City. Grantee shall not be responsible for paying the Capital Contribution with respect to gratis or bad debt accounts. Within ninety (90) days after the end of each year, Grantee shall provide a report to the City regarding such gratis or bad debt accounts, which report may be included as part of another report. The City can inquire as to the status of any such accounts, and the Grantee agrees to meet with the City, upon request, to discuss such matters as necessary. To the extent allowed by federal law, the Capital Contribution may be treated as an external cost by Grantee and itemized on Subscribers' bills. The City shall have discretion to allocate the Capital Contribution in accordance with applicable law, provided the City submits a summary of capital expenditures, and remaining reserve balance, from the Capital Contribution to Grantee within ninety (90) days of the end of each calendar year. To the extent the City makes Access investments using City funds prior to receiving necessary capital advances or Capital Contribution funds, the City is entitled to apply subsequent capital advances or Capital Contribution payments from Grantee toward such City capital investments.

(B) The City and Grantee agree that any Capital Contribution shall be referred to on Subscribers' bills as an "EG fee" or language substantially similar thereto. Grantee shall not change such reference on the Subscribers' bills without the prior written consent of the City, which consent shall not be unreasonably withheld.

9.10 Access Channels On Lowest Tier

All Access Channels provided to Subscribers with a standard definition video signal under this Franchise shall be included by Grantee as a part of Basic Service. All Access Channels provided to Subscribers with a high definition video signal under this Franchise shall be included by Grantee as part of the lowest priced tier of HD Cable Service upon which Grantee provides HD programming content.

9.11 Use of Educational and Governmental Access Channels

Access Channels shall be placed under the authority of the City for use related to governmental and educational purposes. Access Channel use shall include sponsorships and underwriting. Grantee shall not exercise editorial control over programming of any Access Channel made available to the City pursuant to this Franchise. Grantee will not interrupt at its headend or hub site, the signal provided on any Access Channel, except during an upgrade, or during circumstances beyond Grantee's control or if necessary for testing or planned system maintenance purposes.

9.12 Technical Quality

The Grantee shall, at its expense, maintain all Access services, Channels (including functionality and signal quality) and Interconnections at the same level of technical quality and reliability as that for the rest of the Channels carried on the Cable System. Grantee shall provide all necessary equipment outside the demarcation point at the Access Channel provider's origination point, at Grantee's headend and throughout its distribution system to deliver the Access Channels to Subscribers. Grantee shall, at its expense, provide routine maintenance and repair and replace, if necessary, any of Grantee's transport lines and equipment required to carry a quality signal to and from the City's (and Designated Access Providers') and the Grantee's facilities for the

Access Channels. With respect to signal quality, Grantee shall distribute the Access Channel signal it receives from the Designated Access Provider without material degradation. For purposes of this subsection, material degradation means where signal quality is noticeably degraded from that provided to Grantee by the Designated Access Provider at the demarcation point.

9.13 Underutilized Access Channels

(A) Grantee and the City agree that it is their mutual goal to fully and efficiently use the Channel capacity of the Cable System, which may include allowing the Grantee to use underutilized time on the Access Channels. If Grantee believes that any Access Channel has underutilized time, Grantee may file a request with the City to use that time. In response to the request, the City will consider a combination of factors, including, but not limited to, the community's needs and interests, and the source, quantity, type and schedule of the programming carried on the Access Channel. The City will also consider, taking into account the mission of Access programming, whether it is feasible for the Designated Access Providers to cluster Access programming into blocks of time such that the Channel space can be compatibly shared between the Designated Access Provider and the Grantee and/or if several Designated Access Providers can combine their programming onto a single Access Channel. The City shall render its decision regarding the matter within sixty (60) days of receiving the request. Should the City find that the Access Channel or a portion of the Access Channel may be used by the Grantee, then Grantee may begin using such time ninety (90) days after receipt of the decision. The Grantee's request shall not be unreasonably denied. Any permission granted pursuant to this subsection for use of an Access Channel or a portion thereof shall be considered temporary.

(B) At such time as a Designated Access Provider believes that it has sufficient Locally Scheduled Original Programming (or the ability to create same) that would utilize the Access Channel time currently used by the Grantee pursuant to this subsection, a Designated Access Provider may request that the City return such Channel or portion of the Channel for Access purposes. In response to the request, the City will consider a combination of factors, including, but not limited to, the community's needs and interests, and the source, quantity, type and schedule of the Locally Scheduled Original Programming proposed to be carried on the Access Channel as well the Designated Access Provider's ability and resources to acquire or produce the additional proposed Locally Scheduled Original Programming. The City will also consider, taking into account the mission of the Access programming, whether it is feasible for the Designated Access Providers to cluster Locally Scheduled Original Programming into blocks of time such that the Channel space can be compatibly shared between the Designated Access Provider and the Grantee and/or if several Designated Access Providers can combine their respective Locally Scheduled Original Programming onto a single Access Channel. The City shall render its decision regarding the matter within sixty (60) days of receiving the request. Should the City find that the evidence exists to support the return of the Access Channel or a portion of the Access Channel to the Designated Access Provider, then Grantee shall surrender the Access Channel or the requested time on the Access Channel, as applicable, within ninety (90) days of receiving the decision. The Designated Access Provider's request shall not be unreasonably denied.

9.14 Information about Access Programming

If timely provided to Grantee by the City, Grantee shall include information about Access programming in any installation packet Grantee provides to Subscribers. The City shall supply said materials for insertion into any such packet in a format consistent with Grantee's requirements.

9.15 Return Lines

Grantee, at its expense, shall construct and maintain a return line to Grantee's Headend (and/or hub[s] if applicable) from City Hall (on State Avenue) and the Lakewood School District Service Center to enable the distribution of Governmental and Educational Access programming to Residential Subscribers on the Access Channels. If the Lakewood School District has not utilized the Educational Access Channel and if the Franchise Area covered by this Franchise Agreement has been expanded pursuant to Section 12.2 below to include a high school serving the Marysville School District and the Marysville School District desires to utilize the Educational Access Channel, then Grantee will construct and maintain a return line to serve the Marysville High School as described in this Section.

9.16 Access Program Listings in Subscriber Guides

If the City or one or more of the City's Designated Access Providers desires to contract with Grantee's program guide provider to get one or more Access Channels listed in the program guide, Grantee shall facilitate the City's initial contact with the program guide provider. If the City or one or more of the City's Designated Access Providers chooses to contract with Grantee's program guide provider as described in the preceding sentence, then the Access Channel(s) at issue shall be listed on Grantee's program guide in the same manner as other, commercial, Channels.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to generally applicable laws, regulations, rules, resolutions and ordinances of the City and the provisions of this Franchise, Grantee may perform all construction in the Rights-of-Way for any facility needed for the installation, maintenance, upgrade or extension of Grantee's Cable System.

10.2 Right-of-Way Meetings

Subject to receiving advance notice, Grantee shall make reasonable efforts to attend and participate in meetings of the City regarding Right-of-Way issues that may impact the Cable System.

10.3 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All installations of equipment shall be durable and installed in accordance with good engineering practices.

10.4 Joint Trenching/Boring

Whenever it is possible and reasonably and financially practicable to joint trench or share bores or cuts, Grantee shall work with other providers (such as, but not limited to, telecommunications, gas and electric companies), licensees, permittees and franchisees so as to reduce so far as possible the number of Right-of-Way cuts within the Franchise Area.

10.5 Movement of Facilities During Emergencies

During emergencies, the City may move Grantee's facilities without prior notice.

10.6 One Call

Grantee will maintain membership in good standing with the Utility Coordinating Council or other similar or successor organization which is designated to coordinate underground equipment locations and installations. Grantee shall abide by the State's "Underground Utilities" statutes and will further comply with and adhere to local procedures, customs and practices relating to the one call locator service program.

10.7 Permits Required for Construction

Prior to doing any work in the Right-of Way or other public property, Grantee shall apply for, and obtain, appropriate permits from the City. As part of the permitting process, the City may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such Rights-of-Way, and in providing for the proper restoration of such Rights-of-Way and to protect the public and the continuity of pedestrian or vehicular traffic. Grantee shall pay all generally applicable fees for the requisite City permits.

10.8 Emergency Permits

In the event that emergency repairs are necessary, Grantee shall immediately notify the City of the need for such repairs. Grantee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.9 Compliance with Applicable Codes

(A) City Codes. Grantee shall comply with all applicable provisions of the City Code, including, without limitation, construction codes, building codes, the Fire Code, Public Works Street Standards and zoning codes and regulations as they now read or are hereinafter amended.

(B) Regulations and Safety Codes. Grantee shall comply with all applicable federal, State and City safety requirements, rules, regulations, laws and practices. By way of illustration and not limitation, Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) Standards.

10.10 GIS

(A) Upon forty-five (45) days written request by the City, Grantee shall provide a current, updated map of those portions of the Cable System that are located within the Public Right-of-Way. As of the Effective Date, Grantee does not have the ability to deliver such maps in an electronic format usable by a GIS database. However, Grantee expects to improve its technological mapping capabilities in the future. Accordingly, if, at the time of any such request,

Grantee has the ability to do so, Grantee shall provide the requested maps in both a digital format for use in GIS, either shapefile or geodatabase format, and in a hard copy format. The coordinate system of the digital data for overlaying on the City's GIS shall be Washington State Plane North **NAD 83 US Feet**. The data shall indicate locations of overhead cables and underground cables.

(B) Grantee warrants the maps and information supplied with any Right-of-Way permit application will be reasonably accurate to the best of Grantee's knowledge and upon request, within fifteen (15) days, will provide updated information for a particular location in connection with a permit application.

10.11 Least Interference

Work in the Right-of-Way, or on other public or private property in connection with this Franchise, shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's Cable System shall be constructed and maintained in such a manner as not to interfere with sewers, water pipes or any other property of the City, or with any other pipes, wires, conduits, pedestals, structures or other facilities that may have been laid in the Rights-of-Way by, or under, the City's authority. The Grantee's Cable System shall be located, installed, erected and maintained so as not to endanger or interfere with the lives of persons, or to unreasonably interfere with new improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the Rights-of-Way or other public property, and shall not interfere with travel and use of public places by persons during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic, except to the extent any of the foregoing may be authorized by appropriate City permits. In the event of such unreasonable interference, the City may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.12 Prevent Injury/Safety

The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its equipment and work sites in a safe manner in order to prevent accidents that may cause damage or injuries. All work undertaken on the Cable System shall be performed in compliance with applicable FCC or other federal and State regulations. The Cable System shall not endanger or interfere with the safety of Persons or property in the Rights-of-Way.

10.13 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 Subscribers, Grantee shall give reasonable advance notice to private property owners or tenants of work Grantee intends to perform on or adjacent to such private property.

10.14 Underground Construction and Use of Poles

(A) The Grantee shall utilize existing poles and conduit wherever possible.

(B) In areas where either electric or telephone utility wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

(C) Where electric and telephone lines are underground at the time of Cable System construction or upgrade, or when such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the City or Subscribers. Related Cable System equipment, such as pedestals or power supplies, must be placed in accordance with the City's applicable code and permit requirements and rules. Where utility facilities owned and operated by persons other than Grantee are also present or planned and involved in an undergrounding project, Grantee shall only be required to pay its fair share of common costs allocable to all of the facilities, in addition to the costs specifically attributable to the undergrounding of the Grantee's facilities. "Common costs" shall include necessary costs not specifically attributable to the installation or 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 and complexity of Grantee's facilities being installed or undergrounded in comparison to the total number and size of all other utility facilities being installed or undergrounded.

(D) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the City or of any other Person.

(E) The Grantee and the City recognize that situations may occur in the future where the City may desire to place its own fiber optic cable in trenches or bores opened by the Grantee. The Grantee agrees to cooperate with the City in any construction that involves trenching or boring, provided that the City has first provided reasonable notice to the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. The Grantee shall allow the City to lay City conduit and fiber optic cable in the Grantee's trenches and bores, provided the City shares pro rata in the cost of the trenching and boring with Grantee. The City shall be responsible for maintaining its respective conduit and fiber optic cable, which is buried in the Grantee's trenches and bores.

10.15 Restoration of Property

(A) The Grantee shall protect public and private property from damage. If damage occurs, the Grantee shall promptly notify the property owner within twenty-four (24) hours.

(B) Whenever Grantee disturbs or damages any Right-of-Way, other public property or any private property, Grantee shall promptly restore the Right-of-Way or property to at least its prior condition, normal wear and tear excepted, at its own expense.

(C) Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property or private property for one (1) year, unless a longer period is required by the City Code or any generally applicable ordinance or resolution of the City. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the

City may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the reasonable cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the City.

(D) Upon completion of the work that caused any disturbance or damage, Grantee shall promptly commence restoration of private property, and will use its best efforts to complete the restoration within twenty-four (24) hours, considering the nature of the work that must be performed.

10.16 Discontinuing Use

Whenever Grantee intends to discontinue using any Grantee facility comprising a part of the System within the Rights-of-Way, Grantee shall notify the City of its intention. Grantee may remove the facility or request that the City permit it to remain in place. Notwithstanding Grantee's request that any such facility remain in place, the City may require Grantee to remove the facility from the Right-of-Way or modify the facility to protect the public health, welfare, safety, or convenience, or otherwise serve the public interest. The City may require Grantee to perform a reasonable combination of modification and removal of the facility. Grantee shall complete such removal and/or modification respectively in accordance with a schedule reasonably set by the City. Until such time as Grantee removes or modifies the facility as reasonably directed by the City, or until the rights to and responsibility for the facility are accepted by another Person having authority to use, construct and/or maintain such facility, Grantee shall retain all liability for such facility and be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Right-of-Way, in the same manner and degree as if the facility were in active use.

10.17 Movement of Cable System Facilities For City Purposes

Except as otherwise provided in Chapter 35.99 RCW, the City shall have the right to require Grantee to relocate, remove, replace, modify or disconnect Grantee's facilities and equipment located in the Rights-of-Way or on any other property of the City, if so located pursuant to this Franchise, in the event of an emergency or when necessary to protect or further the health, safety or welfare of the general public, and such work shall be performed at Grantee's expense. Except during an emergency, the City shall provide reasonable notice to Grantee, not to be less than ten (10) business days, and allow Grantee the opportunity to perform such action. In the event of any capital improvement project exceeding \$150,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the City shall provide at least sixty (60) days written notice to Grantee. Grantee may, after receipt of the City's written notice requesting that Grantee relocate, remove, replace, modify or disconnect Grantee's facilities or equipment, submit to the City proposed written alternatives to such relocation. The City shall evaluate such alternatives and advise Grantee in writing if one or more of the alternatives are suitable to accommodate the City's project. The City shall give each alternative proposed by Grantee full and fair consideration. In the event the City ultimately determines that there is no reasonable or feasible alternative to the City's original request, or in the event Grantee does not propose written alternatives to the City, Grantee shall relocate,

remove, replace, modify or disconnect its facilities or equipment as requested. If the City requires Grantee to relocate its facilities located within the Rights-of-Way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-Way. If funds are generally made available to users of the Rights-of-Way for such relocation, Grantee shall be entitled to its pro rata share of such funds.

If the Grantee fails to complete the above work within the time prescribed and to the City's reasonable satisfaction, the City may cause such work to be done and bill the reasonable cost of the work to the Grantee, including all reasonable costs and expenses incurred by the City due to Grantee's delay. Within thirty (30) days of receipt of an itemized list of those costs, the Grantee shall pay the City.

10.18 Movement of Cable System Facilities for Other Franchise Holders

Grantee shall have no obligation to permanently move, relocate, disconnect or otherwise modify any of Grantee's equipment or facilities lawfully installed in the Rights-of-Way at the request of any third-party. However, Grantee agrees that, upon receipt of a written relocation request from any third-party that is authorized to use and occupy the City's Rights-of-Way, Grantee will enter into good faith discussions with said third-party in an effort to reach mutually agreeable terms and conditions with respect to the requested relocation or other modification. If Grantee agrees to move, relocate, disconnect or otherwise modify any portion of the Cable System at the request of a third-party, Grantee may require that the costs associated with the movement, relocation, disconnection or other modification of the Cable System be paid by the requesting party, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.19 Temporary Changes for Other Permittees

At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

10.20 Reservation of City Use of Right-of-Way

Nothing in this Franchise shall prevent the City from constructing sewers; grading, paving, repairing or altering any Right-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 Grantee's Cable System.

10.21 Tree Trimming

Grantee may prune or cause to be pruned, using proper pruning practices, any tree in the Rights-of-Way which interferes with Grantee's Cable System. Grantee shall comply with any general ordinance or regulations of the City regarding tree trimming. Except in emergencies, Grantee may not prune trees at a point below thirty (30) feet above sidewalk grade until one (1) week written notice has been given to the owner or occupant of the premises abutting the Right-of-Way in or over which the tree is growing. The owner or occupant of the abutting premises may

prune such tree at his or her own expense during this one (1) week period. If the owner or occupant fails to do so, Grantee may prune such tree at its own expense. For purposes of this subsection, emergencies exist when it is necessary to prune to protect the public or Grantee's facilities from imminent danger only.

10.22 Inspection of Construction and Facilities

The City may inspect any of Grantee's facilities, equipment or construction within the Rights-of-Way and on other public property upon at least twenty-four (24) hours notice, or, in case of an emergency, upon demand without prior notice. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order Grantee, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to inspect, repair and correct the unsafe condition if Grantee fails to do so, and to reasonably charge Grantee therefor.

10.23 Stop Work

(A) On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as reasonably determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances or standards, the work may immediately be stopped by the City.

(B) The stop work order shall:

- (1) Be in writing;
- (2) Be given to the person doing the work, or be posted on the work site;
- (3) Be sent to Grantee by overnight delivery at the address given herein;
- (4) Indicate the nature of the alleged violation or unsafe condition; and
- (5) Establish conditions under which work may be resumed.

10.24 Work of Contractors and Subcontractors

Grantee's contractors and subcontractors shall be licensed and bonded in accordance with the City's generally applicable ordinances, regulations and requirements. Work by Grantee's contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on Grantee's behalf as if the work were performed by it, and 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 them. It is Grantee's responsibility to ensure that Grantee's contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and applicable laws governing the work performed by them.

SECTION 11. SYSTEM TECHNICAL STANDARDS

11.1 Subscriber Network

(A) Grantee's current Cable System is an operational 750 MHz hybrid fiber coaxial Cable System, and the Cable System has two-way capability throughout the Franchise Area. The Cable System shall be capable of supporting the full range of Cable Services offered by Grantee. The Cable System is capable of delivering high quality signals that meet or exceed FCC technical quality standards regardless of any particular manner in which the signal is transmitted. The Cable System is capable of supporting digital video in both standard definition and high definition formats.

(B) Equipment must be installed so that all closed captioned programming received by the Cable System shall include the closed caption signal on retransmission, so long as the closed caption signal is provided consistent with FCC standards. Equipment must also be installed so that all signals received in stereo are retransmitted in stereo.

(C) Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or applicable law.

(D) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular part of the Franchise Area.

11.2 Cable Services in Comparable Communities

Upon request, Grantee shall, every two (2) years following the Effective Date of this Franchise, provide detailed information to the City about Cable Services offered on a non-test basis in similarly situated cable systems in the region. If such Cable Services are not also being offered on Grantee's Cable System in the Franchise Area, Grantee shall provide information on why such Cable Services are not being offered by Grantee in the Franchise Area and an estimated cost to supply such Cable Services. At the City's request, and if economically feasible for Grantee, Grantee shall use commercially reasonable efforts to deploy such new Cable Services within the Franchise Area within a reasonable time frame; provided, however, that in no event shall Grantee be required to deploy new Cable Services or perform any other upgrades to or expansions of its System if Grantee will not be able (in the reasonable business judgment of Grantee) to recover its capital expenditures related to such new deployment, upgrade or expansion within the remaining term of this Franchise.

11.3 Advanced Cable Service

If Grantee intends to offer an advanced Cable Service on any of its cable systems in the greater Seattle metropolitan area, then Grantee shall consider whether the Franchise Area may be a good location in which to beta test or otherwise perform an initial roll-out of such advanced Cable Service. If Grantee determines the Franchise Area may be a good location in which to beta test or otherwise perform an initial roll-out of such advanced Cable Service, Grantee shall so notify the City and ascertain whether the City desires to participate in such beta testing or initial roll-out.

11.4 Standby Power

Grantee shall provide standby power generating capacity at the Cable System headend capable of providing twelve (12) hours of emergency operation. Grantee shall maintain standby power system supplies that will supply back-up power of at least two (2) hours duration throughout the trunk and distribution networks, and four (4) hours duration at all nodes and hubs. In addition, throughout the term of this Franchise, Grantee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than two (2) hours. This outage plan and evidence of requisite implementation resources shall be presented to the City no later than thirty (30) days following receipt of a request therefor.

11.5 Emergency Alert Capability

(A) Emergency Alert System (“EAS”) activation will be accomplished in compliance with all federal and state laws.

(B) The City shall allow only appropriately trained and authorized persons to operate the EAS equipment provided pursuant to this subsection and shall take reasonable precautions to prevent any use of the Grantee’s Cable System that in any manner results in an inappropriate use thereof. To the extent allowed by law, the City shall hold the Grantee, its employees and officers harmless from any claims arising out of the emergency use of the EAS facilities by the City, including, but not limited to, reasonable attorneys’ fees and costs.

(C) Grantee shall ensure that the EAS is functioning properly at all times. It will test the EAS periodically, in accordance with applicable law.

11.6 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal technical standards, as they may be amended from time to time, regardless of the transmission technology utilized. The City shall have the full authority permitted by applicable law to enforce compliance with these technical standards.

11.7 Cable System Performance Testing

(A) Grantee shall, at Grantee’s expense, perform the following tests on its Cable System:

- (1) All tests required by the FCC;
- (2) All other tests reasonably necessary to determine compliance with technical standards adopted by the FCC at any time during the term of this Franchise; and
- (3) All other tests as otherwise specified in this Franchise.

(B) At a minimum, Grantee’s tests shall include:

- (1) Cumulative leakage index testing;

- (2) Semi-annual compliance and proof of performance tests in conformance with generally accepted industry guidelines;
- (3) Tests in response to Subscriber complaints; and
- (4) Periodic monitoring tests, at intervals not to exceed six (6) months, of Subscriber (field) test points, the headend, and the condition of standby power supplies.

Upon request, all required technical performance tests may be witnessed by representatives of the City.

(C) Grantee shall maintain the required written records of all results of its Cable System tests, performed by or for Grantee. Copies of such test results will be provided to the City upon request.

(D) Grantee shall promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Grantee's failure to correct deficiencies identified through this testing process shall be a violation of this Franchise. Sites shall be re-tested following correction.

11.8 Additional Tests

Where there exists other evidence which in the judgment of the City casts doubt upon the reliability or technical quality of the Cable System, the City shall have the right and authority, upon thirty (30) days notice, to require Grantee to test, analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such testing and shall prepare a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) the nature of the complaint or problem which precipitated the special tests;
- (B) the Cable System component tested;
- (C) the equipment used and procedures employed in testing;
- (D) the method, if any, in which such complaint or problem was resolved; and
- (E) any other information pertinent to said tests and analysis, which may be required.

SECTION 12. SERVICE EXTENSION AND SERVICE TO PUBLIC BUILDINGS

12.1 Service Availability

(A) In General. Subject to the density provisions described in Section 12.1(B) below, Grantee shall initiate provision of Cable Service to a Dwelling Unit within seven (7) days of a

request by any potential residential Subscriber within the Franchise Area so long as the potential Subscriber meets Grantee's standard credit qualifications. For purposes of this subsection, a request for Cable Service to a Dwelling Unit shall be deemed made on the date on which a residential service agreement is signed by the potential residential Subscriber. Grantee shall provide such Cable Service:

(1) With no line extension charge except as specifically authorized elsewhere in this Section.

(2) At a nondiscriminatory installation charge for a standard installation, consisting of a maximum of one hundred twenty-five (125) foot aerial drop connecting to the exterior demarcation point for residential Subscribers, with additional charges for non-standard installations computed according to a nondiscriminatory methodology for such installations.

(3) At nondiscriminatory monthly rates in accordance with applicable laws.

(B) Extension and Density. In any portions of the Franchise Area in which Grantee's Cable System is located, Grantee shall make Cable Service available to every residential Dwelling Unit where the minimum density is at least twenty-five (25) Dwelling Units per strand mile in areas served by overhead facilities, and sixty (60) Dwelling Units per line mile in areas served by underground facilities. Grantee may elect to provide Cable Services to areas not meeting the above density standards and charge the requesting resident(s) for the line extension on a non-discriminatory time and materials cost basis. In the event of such extension, Grantee may require that the payment of the capital contribution in aid of construction that is to be borne by such potential customers be paid in advance.

(C) Provision of Cable Service. Grantee shall not arbitrarily refuse to provide Cable Service to any Person within the Franchise Area. Notwithstanding the foregoing, Grantee may introduce new or expanded Cable Services on a phased basis, where such services require an upgrade of the Cable System.

(D) Service to Multiple Dwelling Units. Upon request of the property owner, Grantee shall provide Cable Service to buildings with Multiple Dwelling Units in accordance with Grantee's standard form of Multiple Dwelling Unit agreement, this Franchise and all applicable laws.

12.2 Edge Out Construction; Incremental Expansion of Franchise Area

(A) In general. The City and Grantee acknowledge and agree that as of the Effective Date, the Franchise Area and Grantee's System installed within the Franchise Area covers only a small portion of the City's total municipal area. The City and Grantee agree that it is desirable for Grantee to expand its System into other portions of the City so as to make Grantee's Cable Services available to larger portions of the City. However, the parties acknowledge that it is not economically feasible for Grantee to expand its System to serve the entire City at once. Instead,

the parties agree that an incremental build out of Grantee's System is an appropriate way to manage the gradual expansion of the Franchise Area.

(B) Expansion of Franchise Area. At any time during the term, Grantee may, in its sole discretion, elect to seek to expand its then-existing Franchise Area within the City to include additional areas of the City that are adjacent to Grantee's then-existing Franchise Area, using the process set forth below. Grantee will deliver written notice of any proposed expansion of the System and the Franchise Area to the City, which notice shall include maps showing the location of the proposed expansion (the "Expansion Area") and a description of Grantee's projected timeline for construction. Upon receipt of Grantee's expansion proposal, the City shall review same and may contact Grantee for additional information or to set up a meeting in which to discuss the proposed expansion. The City may propose changes or alterations to Grantee's proposed expansion, including changes to the boundaries or configuration of the proposed Expansion Area. Grantee and the City shall work together in good faith to arrive at a mutually acceptable Expansion Area. If the City determines that Grantee's proposed expansion, as adjusted or altered pursuant to discussions with the City, is a reasonable plan of expansion and is in the best interest of the City and its residents, then the City shall approve same. The City's designee shall have the authority to approve the proposed expansion on behalf of the City, by executing an addendum to this Franchise setting forth the new Franchise Area. To be effective, any such addendum must be counter-signed by Grantee.

(C) Construction of Expanded System. Beginning on the date on which an expansion of the Franchise Area has been formally approved as described in subsection (B) above, Grantee shall have a period of twelve (12) months in which to perform the construction necessary to expand its System into the Expansion Area before the service obligations contained in this Franchise begin to apply to Grantee within the Expansion Area.

(D) Entire City. Grantee is encouraged to propose multiple Expansion Areas during the term, as and when Grantee believes such expansion is economically feasible. Subject to market demand and the City's approval rights with respect to any Grantee expansion proposals, Grantee agrees to use commercially reasonable efforts to continually, throughout the Franchise term, evaluate the footprint of its System within the City (and the corresponding Franchise Area under this Franchise) for potential expansion.

12.3 Connection of Public Facilities

(A) Historically, Grantee has not provided any complimentary Cable Service to City buildings, fire stations, police stations, schools or libraries in the Franchise Area. However, the City shall have the right, at any time during the term, upon giving at least ninety (90) days advance written notice to Grantee, to require Grantee to begin providing, on a complimentary basis, one outlet of Basic Service and Expanded Basic Service to one or more buildings that are owned or leased by the City for administrative purposes, fire and police stations, schools and libraries, provided that such buildings are located within 125 aerial feet (a standard installation) of Grantee's Cable System and provided that such buildings are not already receiving complimentary Cable Service from another provider. If the distance to any such building exceeds one hundred twenty-five (125) aerial feet from Grantee's Cable System, Grantee shall

connect such building and provide the complimentary Cable Service described above if the City or other entity agrees to pay Grantee for the additional, incremental cost to Grantee of performing the extended installation of such drop line in excess of one hundred twenty-five (125) aerial feet, including the cost of excess labor and materials. Grantee shall not be required to provide complimentary Cable Service to any buildings or portions of buildings that are not owned or leased by the City, that are not occupied and used by and for governmental administrative or educational purposes (storage facilities, etc.) or where Grantee would normally enter into a commercial contract to provide Cable Service, such as a prison/jail or a golf course. In instances where the City is leasing and occupying the premises at issue, the City shall be responsible for acquiring any necessary right of entry agreement and paying any associated fees that may be required by the building's owner. The Cable Service provided herein shall not be distributed beyond each originally installed outlet without authorization from Grantee. Such Cable Service shall not be used for commercial purposes or for viewing by the general public, except at City Hall.

(B) If additional outlets are provided by Grantee pursuant to this subsection, the building owner and/or occupant shall pay the usual installation fees associated therewith; however, there shall be no additional charge for the Cable Service. Outlets of Basic and Expanded Basic Service provided in accordance with this subsection may be used to distribute Cable Services throughout such buildings, provided such distribution can be accomplished without causing Cable System disruption and general technical standards are maintained. Such outlets may only be used for lawful purposes.

(C) The City shall take reasonable precautions to prevent any use of Grantee's Cable System in City buildings that may result in an inappropriate use thereof. The standard installations and Cable Service provided pursuant to this subsection are voluntary initiatives of Grantee and will be continued throughout the term of this Franchise.

(D) The fair market value of any complimentary Cable Service provided to the City by Grantee may be offset against Franchise Fees owed by Grantee if and to the extent allowed by law.

SECTION 13. FRANCHISE VIOLATIONS

13.1 Procedure for Remediating Franchise Violations

(A) If the City believes that Grantee has failed to perform any obligation under this Franchise, the City shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default. Grantee shall have thirty (30) days from the receipt of such notice to:

- (1) respond to the City, contesting the City's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below; or
- (2) cure the default; or

(3) notify the City that Grantee cannot cure the default within thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City in writing and in detail as to the exact steps that will be taken and the projected completion date. In such case, the City may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged default within the cure period stated above, or denies the default and requests a meeting in accordance with subsection (A)(1), or the City orders a meeting in accordance with subsection (A)(3), the City shall set a meeting to investigate said issues and the existence of the alleged default. The City shall notify Grantee of the meeting in writing and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the City determines that a default exists, Grantee and the City may agree on a plan and schedule to cure the default. Absent such agreement, the City shall order Grantee to correct or remedy the default or breach within fifteen (15) days or within such other reasonable timeframe as the City shall determine. In the event Grantee does not cure the default within such time to the City's reasonable satisfaction, the City may:

(1) Recommend the revocation of this Franchise pursuant to the procedures in subsection 13.2; or

(2) Recommend any other legal or equitable remedy available under this Franchise or any applicable law.

(D) The determination as to whether a violation of this Franchise has occurred shall be within the discretion of the City, provided that any such determination may be subject to appeal to the City Council or review by a court of competent jurisdiction under applicable law.

13.2 Revocation

(A) The City may revoke this Franchise and rescind all rights and privileges associated with this Franchise in accordance with applicable law under the following circumstances:

(1) If Grantee fails to timely cure a default under Section 13.1 above;

(2) If Grantee willfully fails for more than three (3) days to provide continuous and uninterrupted Cable Service;

(3) If Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the City or Subscribers;

(4) If Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

(5) If Grantee makes a material misrepresentation of fact in the application for or negotiation of this Franchise;

(6) If Grantee fails to timely pay Franchise Fees to the City if the City delivers formal notification of nonpayment to Grantee and Grantee does not pay all franchise fees owing within 30 (thirty) days of delivery of the notification; or

(7) If Grantee breaches a material provision of the Customer Service Standards.

(B) Prior to forfeiture or termination of the Franchise, the City shall give written notice to the Grantee of its intent to revoke the Franchise. The notice shall set forth the exact nature of the noncompliance. Grantee shall have thirty (30) days from such notice to object in writing and to state its reasons for such objection and provide any explanation. In the event the City has not received a satisfactory response from Grantee, it may then seek a termination of the Franchise by the City Council in accordance with this subsection.

(C) Any proceeding regarding revocation shall be conducted by the City Council and open to the public. Grantee shall be afforded at least forty-five (45) days prior written notice of such proceeding.

(1) At such proceeding, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce evidence, and to question witnesses. A complete verbatim record and transcript shall be made of such proceeding and the cost shall be shared equally between the parties. The City Council shall hear any persons interested in the revocation, and shall allow Grantee, in particular, an opportunity to state its position on the matter.

(2) Within ninety (90) days after the hearing, the City Council shall determine whether to revoke the Franchise; or if the breach at issue is capable of being cured by Grantee, the City Council shall direct Grantee to take appropriate remedial action within the time and in the manner and on the terms and conditions that the City Council determines are reasonable under the circumstances. If the City Council determines that the Franchise is to be revoked, the City Council shall set forth the reasons for such a decision and shall transmit a copy of the decision to the Grantee. Grantee shall be bound by the City Council's decision to revoke the Franchise unless it timely appeals the decision to a court of competent jurisdiction.

(3) Grantee and the City shall be entitled to such relief as the court may deem appropriate.

(4) The City Council may in its sole discretion take any lawful action that it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise.

13.3 Procedures in the Event of Termination

(A) If this Franchise expires without renewal or is otherwise lawfully terminated or revoked, the City may, subject to applicable law:

(1) Require Grantee to maintain and operate its Cable System on a month-to-month basis until a new Cable Operator is selected; or

(2) Purchase Grantee's Cable System in accordance with the procedures set forth in subsection 13.4, below.

(B) The City may order the removal of the above-ground Cable System facilities and such underground facilities from the Franchise Area at Grantee's sole expense within a reasonable period of time as determined by the City. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all Rights-of-Way, public places and private property in as good a condition as that prevailing prior to Grantee's removal of its equipment and without adversely affecting electrical or telephone wires or attachments. The indemnification and insurance provisions and the surety bond, if any, shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any sort therefore.

(C) If Grantee fails to complete any removal required by subsection 13.3 (B) to the City's satisfaction, after written notice to Grantee, the City may cause the work to be done and Grantee shall reimburse the City for the costs incurred within thirty (30) days after receipt of an itemized list of the costs, or the City may recover the costs through the surety bond, if any, if Grantee has not paid such amount within the foregoing thirty (30) day time period.

(D) The City may seek legal and equitable relief to enforce the provisions of this Franchise.

13.4 Purchase of Cable System

(A) If at any time this Franchise is lawfully revoked, terminated or not renewed (in accordance with federal law), the City shall have the option to purchase the Cable System.

(B) The City may, at any time after Franchise revocation, termination or non-renewal, offer in writing to purchase Grantee's Cable System. In any case where the City elects to purchase the Cable System, the purchase shall be closed within one hundred twenty (120) days of the date of the City's audit of a balance sheet and current profit and loss statement of Grantee's Cable System. The City shall, as applicable, pay for the Cable System in cash or certified funds, and Grantee shall deliver appropriate bills of sale and other instruments of conveyance.

(C) For the purposes of this subsection, the price for the Cable System shall be determined as follows:

(1) In the case of the expiration of the Franchise without renewal, at fair market value determined on the basis of Grantee's Cable System valued as a going concern, but with no value allocated to the Franchise itself. In order to obtain the fair market value, this valuation shall be reduced by the amount of any lien, encumbrance, or other obligation of Grantee which the City may assume.

(2) In the case of revocation for cause, the equitable price of Grantee's Cable System.

13.5 Receivership and Foreclosure

(A) At the option of the City, subject to applicable law, this Franchise may be revoked after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

(1) The receivership or trusteeship is timely vacated; or

(2) The receivers or trustees have timely and fully complied with all the terms and provisions of this Franchise, and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Franchise.

(B) If there is a foreclosure or other involuntary sale of the whole or any part of the plant, property and equipment of Grantee, the City may serve notice of revocation on Grantee and to the purchaser at the sale, and the rights and privileges of Grantee under this Franchise shall be revoked thirty (30) days after service of such notice, unless:

(1) The City has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and

(2) The purchaser has covenanted and agreed with the City to assume and be bound by all of the terms and conditions of this Franchise.

13.6 Alternative Remedies

No provision of this Franchise shall be deemed to bar the City or the Grantee from seeking appropriate judicial relief. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover monetary damages for violations by Grantee, or to seek and obtain judicial enforcement of Grantee's obligations by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity. The City specifically does not, by any provision of this Franchise, waive any right, immunity, limitation or protection (including complete damage immunity) otherwise available to the City, its officers, officials, City Council, Boards,

commissions, agents, or employees under federal, State, or local law (including, for example, Section 635A of the Cable Act).

13.7 Assessment of Liquidated Damages

(A) The City and Grantee recognize the delays, expense and unique difficulties involved in proving in a legal proceeding the actual loss suffered by the City as a result of Grantee's breach of certain provisions of this Franchise. Accordingly, instead of requiring such proof, the City and Grantee agree that Grantee shall pay to the City the sums set forth below for each day or part thereof that Grantee shall be in breach of specific provisions of this Franchise. Such amounts are agreed to by both parties as a reasonable estimate of the actual damages the City would suffer in the event of Grantee's breach of such provisions of this Franchise.

(B) Subject to the City's giving written notice to the Grantee and a thirty (30) day right to cure period, the City may assess against Grantee liquidated damages up to two hundred fifty dollars (\$250.00) per day for material departure from the FCC technical performance standards; one hundred dollars (\$100.00) per day for failure to provide the Access Channels or any equipment related thereto which is required hereunder; one hundred dollars (\$100.00) per day for each material violation of the Customer Service Standards; fifty dollars (\$50.00) per day for failure to provide reports or notices as required by this Franchise; and up to one hundred dollars (\$100.00) per day for any other uncured material breaches or defaults under the Franchise; provided however, in no event shall the aggregate amount of any such monetary penalties assessed during the term of the franchise exceed fifty thousand dollars (\$50,000).

SECTION 14. FRANCHISE RENEWAL

(A) The City and Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, unless the procedures or substantive protections set forth therein shall be deemed to be preempted and/or superseded by the provisions of any subsequent provision of federal or State law.

(B) In addition to the procedures set forth in said Section 626(a), the City agrees to notify Grantee of the completion of its assessments regarding the identification of future cable-related community needs and interests, as well as the past performance of Grantee under the then current Franchise term. Notwithstanding anything to the contrary set forth herein, Grantee and the City agree that at any time during the term of the then current Franchise, while affording the public adequate notice and opportunity for comment, the City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the City may grant a renewal thereof. Grantee and the City consider the terms set forth in this subsection to be consistent with the express provisions of Section 626 of the Cable Act.

SECTION 15. FRANCHISE TRANSFER

(A) Subject to Section 617 of the Cable Act, the Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by

involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person without the prior written consent of the City, which consent shall not be unreasonably withheld.

(B) The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party of control of the Grantee. The word “control” as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised. Every change, transfer or acquisition of control of the Grantee shall make this Franchise subject to cancellation unless and until the City shall have consented thereto.

(C) The parties to any proposed sale, transfer or change of control shall make a written request to the City for its approval of a sale, transfer or change of control and shall furnish all information required by law.

(D) In seeking the City’s consent to any change in ownership or control, the proposed transferee or controlling party shall indicate whether, as applicable, it:

(1) Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(2) Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against it by any court of competent jurisdiction;

(3) Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a cable system;

(4) Is financially solvent, by submitting financial data, including financial statements, that are audited by an independent certified public accountant, along with any other data that the City may reasonably require; and

(5) Has the legal, financial and technical capability to enable it to maintain and operate the Cable System for the remaining term of the Franchise.

(E) In reviewing a request for sale, transfer or change of control, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said sale, transfer or change of control upon such terms and conditions as it deems reasonably appropriate, provided, however, any such terms and conditions so attached shall be related to the legal, technical and financial qualifications of the prospective controlling party or transferee. Additionally, such Person shall effect changes as promptly as practicable in the operation of the Cable System, if any changes are necessary to cure any violations or defaults presently in effect or ongoing.

(F) The City shall act by ordinance or resolution on the request within one hundred twenty (120) days of the request, provided it has received all information required by law, such as a complete FCC Form 394. Subject to the foregoing, if the City fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

(G) Within sixty (60) days of the closing of any transfer, sale or change of control, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed, agreement, lease or other written instrument evidencing such sale or transfer of ownership or control, certified and sworn to as correct by Grantee and the transferee or new controlling entity. In the case of a sale or transfer of ownership or change of control, the transferee or the new controlling entity shall file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to applicable law. In the event of a change in control, in which the Grantee is not replaced by another entity, the Grantee will continue to be bound by all of the provisions of the Franchise and will not be required to file an additional written acceptance.

(H) Notwithstanding anything to the contrary contained elsewhere in this Section 15, the prior approval of the City shall not be required for any sale, assignment or transfer of the Franchise or all or any portion of the Cable System to an Affiliate of Grantee; provided that the proposed assignee or transferee must show legal, technical and financial responsibility as may be determined necessary by the City and must agree in writing to comply with all of the provisions of the Franchise, subject to applicable law. Further, Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the City; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise.

SECTION 16. MISCELLANEOUS PROVISIONS

16.1 Discriminatory Practices Prohibited

Throughout the term of this Franchise, Grantee shall fully comply with all equal employment and nondiscrimination provisions and requirements of federal, State and local laws, and rules and regulations relating thereto.

16.2 Local Employment Efforts

Grantee shall use reasonable efforts to utilize qualified local contractors, including minority business enterprises and woman business enterprises, whenever the Grantee employs contractors to perform work under this Franchise.

16.3 Notices

Throughout the term of this Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent to such respective address, and such notices shall be effective upon the date of mailing. At the effective date of this Franchise:

Grantee's address shall be:

WaveDivision I, LLC
 115 South Maple Avenue
 PO Box 1630
 LaConner, WA 98257
 Attention: General Manager

With a copy to:

Wave Broadband
 401 Kirkland Parkplace, Suite 500
 Kirkland, WA 98033
 Attention: Steve Weed and Jim Penney

City's address shall be:

City of Marysville
 1049 State Avenue
 Marysville, Washington 98270
 Attention: City Attorney

16.4 Cumulative Rights

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 other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity.

16.5 Costs to be Borne by Grantee

Grantee shall reimburse the City for all costs of publication of this Franchise, and any notices prior to any public hearing regarding this Franchise, contemporaneous with its acceptance of this Franchise. Grantee agrees that the additional commitments herein are not Franchise Fees, nor are they to be offset or credited against any Franchise Fee payments due to the City.

16.6 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

16.7 Authority to Amend

In addition to certain amendment provisions of Section 2.6, and the potential expansion of the Franchise Area described in Section 12.2, this Franchise may also be amended at any time by mutual written agreement between the parties.

16.8 Venue

Venue for any dispute related to this Franchise shall be either in Snohomish County Superior Court in Everett, Washington, or the federal District Court for the Western District of Washington in Seattle, Washington, as appropriate.

16.9 Governing Laws

This Franchise shall be governed, construed and enforced in accordance with the laws of the State of Washington (as amended), the Cable Act as amended, any applicable rules, regulations and orders of the FCC, and any other applicable local, State and federal laws, rules, regulations, legislation or orders (as such now exist, are later amended or subsequently adopted).

16.10 Guarantee

The performance of Grantee under this Franchise shall be guaranteed in all respects by WaveDivision Holdings, LLC, a Delaware limited liability company. A signed guarantee shall be filed with the City contemporaneously with Grantee's acceptance of this Franchise.

16.11 Counterparts

This Franchise may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on the parties hereto.

16.12 Captions

The captions and headings of this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of any provision of this Franchise.

16.13 No Joint Venture

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 which would indicate any such relationship with the other.

16.14 Waiver

The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same, nor shall the waiver by the City 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.

16.15 Severability

If any Section, subsection, paragraph or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

16.16 Entire Agreement

This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral and written negotiations between the parties.

16.17 Force Majeure

In the event Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by a reason beyond the control of Grantee, Grantee shall have a reasonable time,

under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the City. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, severe or unusual weather conditions which have a direct and substantial impact on the Grantee's ability to provide Cable Services in the Franchise Area and which could not have been avoided by the Grantee which used its best efforts in its operations to avoid such problems, work delays caused by waiting for utility providers to service or perform make-ready services on their utility poles or other facilities to which the Grantee's Cable System is attached, and Grantee's inability to obtain federal, State or railroad permits despite Grantee's best efforts to do so.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the provisions of this Franchise, Grantee shall provide documentation as reasonably required by the City to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure.

16.18 Attorneys' Fees

If any action or suit arises in connection with this Franchise, the prevailing or substantially prevailing party (either the City or Grantee, as the case may be) shall be entitled to recover all of its reasonable attorneys' fees, costs and expenses in connection therewith, in addition to such other relief as the court may deem proper.

16.19 Actions of the City or Grantee

In any action by the City or Grantee mandated or permitted under the terms hereof, it shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

16.20 Acceptance

Within forty-five (45) days after the passage and approval of this Franchise by Ordinance by the City Council, this Franchise shall be accepted by Grantee by filing with the City Clerk an unconditional, written acceptance of all of the terms and conditions of this Franchise. Failure of Grantee to file such an acceptance shall be deemed a rejection by Grantee, and this Franchise shall be voidable at the discretion of the City.

PASSED by the City Council and APPROVED by the Mayor this 22 day of June, 2015.

CITY OF MARYSVILLE

By 
JOHN NEHRING, Mayor

ATTEST:



SANDY LANGDON, City Clerk

APPROVED AS TO FORM


JON WALKER, City Attorney

Accepted and approved this 22nd day of June, 2015.

WaveDivision I, LLC

By 
Name James A. Penney
Its Executive Vice President

**Radiate Holdings, L.P.
301 Commerce Street, Suite 3300
Fort Worth, TX 76102**

Via Fedex

January 25, 2018

Jon Walker, City Attorney
City of Marysville
1049 State Avenue
Marysville, WA 98270

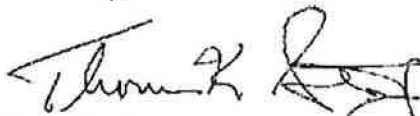
Dear Mr. Walker:

On June 19, 2017, Radiate HoldCo, LLC, a Delaware limited liability company and an indirect wholly-owned subsidiary of Radiate Holdings, L.P. (“Radiate”) and Wave Holdco, LLC (“Wave”) notified and provided you with a copy of the Securities Purchase Agreement for a proposed transaction between Radiate and Wave in which Radiate would acquire all the outstanding membership interests of Wave, including WaveDivision I, LLC (“Franchisee”), which currently holds a franchise to offer video service in your community (the “Transaction”). This letter is to inform you that Radiate and Wave obtained all necessary regulatory approvals for the transfer of control of Wave to Radiate, and the parties closed the Transaction on January 24, 2018.

While as a result of the Transaction, indirect control of Franchisee changed from Wave to Radiate, Franchisee’s legal name has not changed, and Radiate has no current plans to change the local operations or structure of Wave’s and Franchisee’s operations, or the services offered.

If you have any questions, please contact Tom Steel at (617) 670-2906 or at Tom.Steel@rcn.net.

Sincerely,



Tom Steel
Vice President of Regulatory & Public Affairs
RCN Telecom Services, LLC

Index #12

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

CITY COUNCIL MEETING DATE:

AGENDA ITEM:	
Cedarcrest Golf Rate Increase	
PREPARED BY: Tara Mizell	DIRECTOR APPROVAL:
DEPARTMENT: Parks, Culture and Recreation	
ATTACHMENTS:	Cedarcrest Golf Rate Increase and Current Market Study
BUDGET CODE:	AMOUNT:
<p>SUMMARY: Staff in partnership with our contractor, Premier Golf Centers, LLC are recommending an increase of golf fees to be collected at Cedarcrest. The current market study clearly shows that these increases are in line with our local competitors and well within industry standards. We recommend adoption of the attached rate tables for 2021-2025. We will still have the ability to revisit the rates should the market change during the next four years.</p>	

<p>RECOMMENDED ACTION: Staff recommends that Council authorize the Mayor to execute rate increases for Cedarcrest Golf Course effective March 2021 through March 2025.</p> <p>RECOMMENDED MOTION: I move to authorize the Mayor to sign and execute _____.</p>
--

CITY OF MARYSVILLE
Marysville, Washington

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, ADOPTING REVISED GREENS FEES AND RENTAL FEES
FOR CEDARCREST GOLF COURSE.**

WHEREAS, staff and course operator Premier Golf have evaluated greens fees and rental fees at Cedarcrest Golf Course and at comparable golf courses; and

WHEREAS, setting fees as set forth in Exhibit A would maintain consistency with industry standards, offer competitive rates and are expected to meet revenue goals for the course.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARYSVILLE that Resolution No. 2483 is repealed and the schedule of greens fees and rental fees in Exhibit A is adopted effective March 9th.

ADOPTED by the City Council at an open public meeting this 8th day of March, 2021.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
TINA BROCK, DEPUTY CITY CLERK

Approved as to form:

By _____
JON WALKER, CITY ATTORNEY

RATES--Cedarcrest 6 year look--RATES

Proposing increase 2years in a row and then off a year

Adult-PRE TAX

RATE	2020	2021	2022	2023	2024	2025
18 holes WD	30.0	32.0	32.0	33.0	34.0	34.0
18 Holes WE	35.0	37.0	37.0	38.0	39.0	39.0
9 Holes WD	22.0	23.0	23.0	24.0	25.0	25.0
Twilight WD	22.0	23.0	23.0	24.0	25.0	25.0
Twilight WE	22.0	23.0	23.0	24.0	25.0	25.0
Tw-Late WD/WE	14.0	15.0	15.0	16.0	17.0	17.0
Early Bird	22.0	23.0	23.0	24.0	25.0	25.0
9 Holes WE (after Noon)	23.0	24.0	24.0	25.0	26.0	26.0
18 Hole playcard	323.5	345.3	345.3	356.3	367.2	367.2
Playcard WE Surcharge	4.0	4.0	4.0	4.0	4.0	4.0
Adult Annual (valid anyday)	1851.7	1939.1	1939.1	1982.8	2026.54	2026.5

Senior/Military (weekday)-PRE TAX

RATE	2020	2021	2022	2023	2024	2025
18 holes WD	24.0	26.0	26.0	27.0	28.0	28.0
9 Holes WD	17.0	18.0	18.0	19.0	20.0	20.0
Twilight WD	22.0	23.0	23.0	24.0	25.0	25.0
18 Hole playcard-post tax	241.2	263.0	263.0	274.0	284.9	284.9
Senior Annual (Mon-Fri only)-post tax	1234.4	1321.9	1321.9	1365.60	1409.32	1409.3
Senior Qtr. Pass (Mon-Fri only)-pots tax	257.2	279.1	279.1	290.0	300.9	300.9

Junior -PRE TAX

RATE	2020	2021	2022	2023	2024	2025
18 Holes WD	14.0	14.0	14.0	14.0	15.0	15.0
9 Holes WD	14.0	14.0	14.0	14.0	15.0	15.0
Twilight WD	14.0	14.0	14.0	14.0	15.0	15.0

Rentals-POST TAX

	2020	2021	2022	2023	2024	2025
18 Hole	\$ 15.00	\$ 16.00	\$ 16.00	TBD	TBD	TBD
9 Hole	\$ 10.00	\$ 11.00	\$ 11.00	TBD	TBD	TBD
18 Twilight	\$ 10.00	\$ 11.00	\$ 11.00	TBD	TBD	TBD
9 Twilight	\$ 10.00	\$ 11.00	\$ 11.00	TBD	TBD	TBD
Trail Fee	\$ 8.00	\$ 8.00	\$ 8.00	TBD	TBD	TBD
Pull Cart	\$ 6.00	\$ 7.00	\$ 7.00	TBD	TBD	TBD
Rental Clubs	\$ 15.00	\$ 30.00	\$ 30.00	TBD	TBD	TBD

GREY=rate increased that year

WINTER RATES--Cedarcrest 6 year look--WINTER RATES

Proposing increase 2years in a row and then off a year-\$1 Increase

Adult-PRE TAX**WINTER NOV 1 THRU FEB 28**

RATE	2020	2021	2022	2023	2024	2025
18 holes WD	25.5	26.5	26.5	27.5	28.5	28.5
18 Holes WE	28.0	29.0	29.0	30.0	31.0	31.0
9 Holes WD	19.3	20.3	20.3	21.3	22.3	22.3
Twilight WD	19.3	20.3	20.3	21.3	22.3	22.3
Twilight WE	19.3	20.3	20.3	21.3	22.3	22.3
Tw-Late WD/WE	13.3	14.3	14.3	15.3	16.3	16.3
Early Bird	20.3	21.3	21.3	22.3	23.3	23.3
9 Holes WE (after Noon)	19.3	20.3	20.3	21.3	22.3	22.3
18 Hole playcard	323.5	345.3	345.3	355.3	365.3	365.3
Playcard WE Surcharge	4.0	4.0	4.0	4.0	4.0	4.0
Adult Annual (valid anyday)	1851.7	1939.1	1939.1	1982.8	2026.54	2026.5

Senior/Military (weekday)-PRE TAX**WINTER NOV 1 THRU FEB 28**

RATE	2020	2021	2022	2023	2024	2025
18 holes WD	20.3	26.0	26.0	27.0	28.0	28.0
9 Holes WD	15.8	18.0	18.0	19.0	20.0	20.0
Twilight WD	19.3	23.0	23.0	24.0	25.0	25.0
18 Hole playcard-post tax	241.2	263.0	263.0	274.0	284.9	284.9
Senior Annual (Mon-Fri only)-post tax	1234.4	1321.9	1321.9	1365.60	1409.32	1409.3
Senior Qtr. Pass (Mon-Fri only)-pots tax	257.2	279.1	279.1	290.0	300.9	300.9

Junior -PRE TAX**WINTER NOV 1 THRU FEB 28**

RATE	2020	2021	2022	2023	2024	2025
18 Holes WD	14.0	14.0	14.0	14.0	15.0	15.0
9 Holes WD	14.0	14.0	14.0	14.0	15.0	15.0
Twilight WD	14.0	14.0	14.0	14.0	15.0	15.0

Rentals-POST TAX **WINTER NOV 1 THRU FEB 28**

	2020	2021	2022	2023	2024	2025
18 Hole	\$ 15.00	\$ 16.00	\$ 16.00	TBD	TBD	TBD
9 Hole	\$ 10.00	\$ 11.00	\$ 11.00	TBD	TBD	TBD
18 Twilight	\$ 10.00	\$ 11.00	\$ 11.00	TBD	TBD	TBD
9 Twilight	\$ 10.00	\$ 11.00	\$ 11.00	TBD	TBD	TBD
Trail Fee	\$ 8.00	\$ 8.00	\$ 8.00	TBD	TBD	TBD
Pull Cart	\$ 6.00	\$ 7.00	\$ 7.00	TBD	TBD	TBD
Rental Clubs	\$ 15.00	\$ 30.00	\$ 30.00	TBD	TBD	TBD

GREY=rate increased that year

Update
Index #15

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 3/8/21

AGENDA ITEM:	
Ordinance Amending Chapter 6.27 MMC and Criminalizing Possession of a Controlled Substance Without a Prescription	
PREPARED BY:	DIRECTOR APPROVAL:
Jon Walker	
DEPARTMENT:	
Legal	
ATTACHMENTS:	
BUDGET CODE:	AMOUNT:
SUMMARY:	

On February 25, 2021, the Washington State Supreme Court held in the case of *State v. Blake*, No. 96873-0, that RCW 69.50.4013(1) – the statute that criminalized the possession of a controlled substance without a prescription – exceeds the state’s police power and violates the due process clauses of the state and federal constitutions. The Court reasoned that the statute imposed strict liability for possession of a controlled substance and that this was not ameliorated by the ability of an “unwitting possession” defense because the “statute criminalize[s] innocent and passive possession, even by a defendant who does not know, and has no reason to know, that drugs lay hidden within something that they possess.” When a statute is declared by the courts to be unconstitutional, it is void and a nullity. Consequently, police cannot arrest for possession of a controlled substance without a prescription and such possession cannot be prosecuted.

The state uniform controlled substance act, chapter 69.50 RCW, preempts cities from adopting penalties that are inconsistent with the state UCSA. Previously, possession of a controlled substance without a prescription was a class C felony. However, because there is no state statute currently prohibiting the possession of a controlled substance in Washington, the City may choose to criminalize such conduct and set penalties. Article XI, section 11 of the state constitution authorizes a city to “make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws.”

The use of controlled substances without a prescription is correlated with criminal activity, homelessness, and mental health issues. The absence of any criminal penalties for such possession will reduce the effectiveness of the City’s initiatives in teaming with social workers and mental health professionals and the Mental Health Alternatives Program (MAP Court), by eliminating incentives for individuals to enter treatment or obtain necessary social services.

RECOMMENDED ACTION: Staff recommends the City Council consider adopting an ordinance prohibiting possession of a controlled substance without a prescription.

RECOMMENDED MOTION: I move to adopt Ordinance No. _____.

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, AMENDING CHAPTER 6.27 OF THE MUNICIPAL CODE
AND CRIMINALIZING THE POSSESSION OF A CONTROLLED SUBSTANCE
WITHOUT A PRESCRIPTION.**

WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional can result in physical injury or death; and

WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional often exacerbates mental health conditions; and

WHEREAS, using controlled substances can alter a person's brain or brain chemistry with negative health consequences; and

WHEREAS, persons using controlled substances can become addicted to such substances resulting in negative physical and mental health consequences and damage to family and personal relationships; and

WHEREAS, the use of controlled substances without a prescription or medical supervision is more likely to result in addiction; and

WHEREAS, the use of controlled substances without a prescription is positively correlated with criminal behavior; and

WHEREAS, the City has taken steps to address these problems through teaming police officers with social workers and mental health professionals and the municipal court's Mental Health Alternatives Program; and

WHEREAS, public health officials in Snohomish County have linked an increase in opioid deaths and the use of naloxone to prevent overdoses with the continuing COVID-19 pandemic; and

WHEREAS, on February 25, 2021, the Washington State Supreme Court held in the case of State v. Blake, No. 96873-0, that RCW 69.50.4013(1) – the statute that criminalized the possession of a controlled substance without a prescription – exceeds the state's police power and violates the due process clauses of the state and federal constitutions; and

WHEREAS, the Supreme Court's ruling has the effect of eliminating any criminal penalties for the possession of a controlled substance without a prescription; and

WHEREAS, the Supreme Court's ruling also eliminates the authority of police officers to arrest persons possessing a controlled substance without a prescription or obtaining search warrants to search for controlled substances possessed without a prescription; and

WHEREAS, the lack of criminal penalties for the possession of controlled substances without a prescription will immediately result in an increase in the negative health and safety consequences associated with the use of controlled substances without a prescription; and

WHEREAS, the lack of enforcement authority of the police will interfere with the City's initiatives to address addiction and criminal activity associated with the use of controlled substances without a prescription by eliminating incentives for individuals to enter treatment or obtain necessary social services; and

WHEREAS, the effect of eliminating criminal penalties and police authority in regard to the possession and use of controlled substances without a prescription will have an immediate, direct, and negative impact on the health, safety, and welfare of the City's inhabitants; and

WHEREAS, this is a public emergency ordinance necessary for the protection of public health and public safety, and should be effective upon adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The Recitals set forth above are adopted as findings of fact in support of this emergency ordinance.

SECTION 2. Chapter 6.27 of the municipal code is amended as set forth in Exhibit A.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be 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 4. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

SECTION 5. Effective Date. This ordinance is necessary for the protection of public health and public safety, and is effective upon adoption.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2021.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
_____, DEPUTY CITY CLERK

Approved as to form:

By _____
JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date: _____

EXHIBIT A

6.27.010 Statutes incorporated by reference.

The following statutes regarding controlled substances and drug paraphernalia are incorporated by reference:

RCW

9.47A.010	Definition.
9.47A.020	Unlawful inhalation – Exception.
9.47A.030	Possession of certain substances prohibited, when.
9.47A.040	Sale of certain substances prohibited, when.
9.47A.050	Penalty.
69.41.010	Definitions of legend drugs.
69.41.030	Possession of a legend drug unlawful.
69.41.060	Search and seizure.
69.50.101	Definitions.
69.50.102	Definitions.
69.50.201	Authority to control.
69.50.202	Nomenclature.
69.50.204	Schedule I. Marijuana defined as a controlled substance.
69.50.206	Schedule II.
69.50.208	Schedule III.
69.50.210	Schedule IV.
69.50.212	Schedule V.
69.50.214	Controlled substance analog.
69.50.401	(e) Possession of 40 grams or less of marijuana prohibited.
69.50.412	Prohibited acts and penalties regarding drug paraphernalia.
69.50.425	Minimum imprisonment.
69.50.505	Forfeiture of controlled substances and drug paraphernalia, and equipment and vehicles associated therewith.

NEW SECTION. 6.27.030

(1) It is unlawful for any person to knowingly possess a controlled substance or to possess a controlled substance with intent to use it, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by chapter 69.50 RCW.

(2) Any person who violates this section is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine.

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section or this chapter.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding

those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section or this chapter.

(c) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section or this chapter.

(d) It is unlawful for a person under twenty-one years of age to knowingly possess or possess with intent to use marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization. Violation of this subsection is a misdemeanor punishable by up to 90 days in jail and a \$1,000 fine.