



MARYSVILLE
WASHINGTON

**CITY COUNCIL REGULAR MEETING
MONDAY, APRIL 8, 2024 – 7:00 PM
501 DELTA AVENUE
MARYSVILLE, WA 98270**

AGENDA

To listen to the meeting without providing public comment:

Join Zoom Meeting

<https://us06web.zoom.us/j/86246307568>

Or

Dial toll-free US: 888 475 4499

Meeting ID: 862 4630 7568

Call to Order

Invocation

Pledge of Allegiance

Roll Call

Approval of the Agenda

Presentations

- A. Strategies 360 - 2024 Legislative Session Report

Public Comment

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

Consent

1. March 25, 2024 Payroll in the Amount of \$2,380,879.64 Paid by EFT Transactions and Check Numbers 35213 through 35228
2. Purchase Order Authorization with King County Directors Association & Contract for the Parkside Way Park Playground Replacement
Recommended Motion: I move to authorize the Mayor to sign and execute the purchase order to the King County Directors Association and sign and execute the contract with AllPlay Systems, LLC for the replacement of playground equipment at Parkside Way Park.

[PW5 - Parkside Playground 2024.pdf](#)
[PO P0682 - Parkside Playground 2024.pdf](#)

3. Interlocal Agreement with Snohomish County for Affordable Housing and Behavioral Health Fund
Recommended Motion: I move to authorize the mayor to sign and execute the Interlocal Agreement with Snohomish County for Affordable Housing and Behavioral Health Fund.
[AHBH ILA Letter.pdf](#)
[AHBH Capital Facilities -ILA.pdf](#)
4. Premera Blue Cross ASC Agreement
Recommended Motion: I move to authorize the Mayor to sign and execute the agreement with Premera Blue Cross.
[Proposed Contract.pdf](#)

Review Bids

Public Hearings

New Business

5. An **Ordinance** of the City Council of the City of Marysville, Washington, Authorizing the City Engineer to Accept Easements for Utility Purposes
Recommended Motion: I move to adopt Ordinance No. _____.
[Ordinance - Utility Easements.pdf](#)
6. An **Ordinance** creating an Interfund Loan Program and enacting Chapter 3.06 as a new Chapter.
Recommended Motion: I move to adopt Ordinance No. _____.
[Memo-Establishment of a new section for Interfund Loan Program.docx](#)
[Ordinance - Interfund Loans.pdf](#)
7. Transportation Improvement Board (TIB) Grant Agreement for the 2024 Pavement Preservation Project*
Recommended Motion: I move to authorize the Mayor to sign and execute the TIB Grant Agreement and Project Funding Status Form for the TIB grant funding of the 2024 Pavement Preservation Project.
[Grant Agreement - CSP - Marysville - Citywide ADA Ramps.pdf](#)
[Project Funding Status Form - Citywide ADA Ramps.pdf](#)

Legal

Mayor's Business

Staff Business

Call on Councilmembers and Committee Reports

Adjournment/Recess

Executive Session

A. Litigation

B. Personnel

C. Real Estate

Reconvene

Adjournment

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

*** These items have been added or revised from the materials previously distributed in the packets for the April 1, 2024 Work Session.**



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: Executive Services Coordinator Sarah Calvin, Executive

ITEM TYPE: Presentation

AGENDA SECTION: **Presentations**

SUBJECT: Strategies 360 - 2024 Legislative Session Report

SUGGESTED ACTION:

SUMMARY:

ATTACHMENTS:



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: Senior Accounting Technician Shannon Early, Finance

ITEM TYPE: Payroll

AGENDA SECTION: **Consent**

SUBJECT: March 25, 2024 Payroll in the Amount of \$2,380,879.64 Paid by EFT Transactions and Check Numbers 35213 through 35228

SUGGESTED ACTION:

SUMMARY:

ATTACHMENTS:



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: Transportation and Parks Maintenance Manager Jesse Birchman,
Public Works

ITEM TYPE: Agreement

AGENDA SECTION: **Consent**

SUBJECT: Purchase Order Authorization with King County Directors Association & Contract for the Parkside Way Park Playground Replacement

SUGGESTED ACTION: Recommended Motion: I move to authorize the Mayor to sign and execute the purchase order to the King County Directors Association and sign and execute the contract with AllPlay Systems, LLC for the replacement of playground equipment at Parkside Way Park.

SUMMARY:

This action authorizes the purchase and installation of new playground equipment to replace the existing equipment at Parkside Way Park. This purchase is made through the City's intergovernmental cooperative purchase agreement with the King County Directors Association (KCDA) Contract #22315.

Proposals were solicited from all five playground equipment installers available under the KCDA Contract. All five of the firms submitted between 2-3 proposals each, for a total of 13 proposals considered. Parks staff reviewed the proposals and selected AllPlay Systems' as the preferred proposal based on the number and uniqueness of play features provided within the \$270,000 budget and the vertical appearance of the play structures, and the overall aesthetic of the features.

The City's contract with AllPlay Systems supplements KCDA Contract #22-315 with AllPlay Systems, to ensure additional City-required terms. AllPlay Systems quote dated February 26, 2024 in the amount of \$224,709.79 (including WSST) includes the following:

- The removal and disposal of the existing playground equipment and engineered wood fiber (EWF) play surfacing,
- The installation of two new playground structures, one for 2-5 year olds for 5-12 year olds, and
- The installation of new ADA compliant EWF play surfacing with all necessary subgrade preparation.
-

Staff also request approval of a 10% management reserve, or \$22,470.98, for a total allocation of \$247,180.77.

ATTACHMENTS:

[PW5 - Parkside Playground 2024.pdf](#)

[PO P0682 - Parkside Playground 2024.pdf](#)

SMALL PUBLIC WORKS CONTRACT

THIS SMALL PUBLIC WORKS CONTRACT (the “Contract”) 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 (the “City”), and All Play Systems, a limited liability corporation, organized under the laws of the state of Washington, located and doing business at PO Box 1886, Sequim, WA 98382 (the “Contractor”).

WHEREAS, the City desires the purchase and install of new playground equipment and play surfacing at the Parkside Way Park; and

WHEREAS, the Contractor represents that it is qualified and possesses sufficient skills and the necessary capabilities to perform, carry out, and complete the project and submitted a bid, proposal, or quote to the City to carry out the project; and

WHEREAS, the Contractor and the City desire to enter into this Contract for completion of the project in accordance with the terms and conditions of this Contract;

WHEREAS, procurement for this project was accomplished through the King County Directors’ Association (KCDA) and the parties will follow certain KCDA procedures; and

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, the City and the Contractor agree as follows:

1. Scope of Work—the Project.

The Contractor shall perform, carry out, and complete the Parkside Way Park Playground Replacement Project (the “Project”) more fully described in **EXHIBIT A** which is attached hereto and incorporated by this reference. Exhibit A may reference or include a description of the Project, the Contractor’s bid/proposal, plans, drawings, or technical specifications (collectively, with this Contract, the “Contract Documents”).

2. Term of Contract.

The term of this Contract shall commence upon full execution of this Contract by the City and the Contractor and shall terminate upon final payment by the City to the Contractor, unless sooner terminated by either party under Section 8 or another applicable provision of the Contract. The Project shall be completed no later than 50 working days following delivery of the new playground equipment to either the City or the contractor. Working days are administered consistent with the current version of the Washington State Department of Transportation's

Standard Specifications for Road, Bridge, and Municipal Construction on full execution of this contract.

3. Commencement of Work.

The Contractor shall not commence any work under this Contract until the City issues a Notice to Proceed. The City will not issue a Notice to Proceed until the Contractor satisfies the following conditions:

- a. The Contract has been signed and fully executed by the parties.
- b. The Contractor has provided the City with satisfactory documentation that the Contractor is licensed and bonded as a contractor in the State of Washington.
- c. The Contractor has obtained a City of Marysville Business License and a State of Washington Unified Business Identifier number.
- d. The Contractor has provided the City with satisfactory documentation that it has industrial insurance coverage as required by Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW.
- e. The Contractor has provided the City with satisfactory documentation that it is not disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
- f. The Contractor has provided the City with all certificates of insurance required under Section 13.

The Contractor must satisfy the proceeding conditions within fourteen (14) calendar days of the City providing the Contractor notice of the award of the Contract. The Contractor shall commence work on the Project within seven (7) calendar days of the City issuing the Notice to Proceed.

4. Payment for Project.

a. Total Contract Sum for the Project. The City shall pay the Contractor, for satisfactory completion of the Project, a Total Contract Sum not to exceed Two Hundred Twenty Four Thousand Seven Hundred Nine Dollars and Seventy Nine Cents (\$224,709.79) including all applicable Washington State Sales Tax. The Total Contract Sum includes all expenses and costs incurred in planning, designing, and constructing the Project, including, but not limited to, applicable sales and use taxes, costs and expenses for overhead, profit, labor, materials, supplies, permits, subcontractors, consultants, and professional services necessary to construct and complete the Project in conformance with the Contract Documents.

b. Statement of Intent to Pay Prevailing Wages. The City will not make any payment to the Contractor prior to receiving a copy of Contractor's Intent to Pay Prevailing Wages (or a Combined Intent/Affidavit if approved by the City).

c. Payments. The City will provide a purchase order to KCDA to initiate this project. The Contractor will invoice to KCDA and the City will submit payment to KCDA. The City will only pay the Contractor for satisfactorily completed work on the Project within the scope of the Contract Documents. Progress payments shall be based on the timely submittal by the Contractor of an invoice in a form acceptable to the City and KCDA. The form shall be appropriately completed and signed by the Contractor. Invoices not signed and/or completed shall be considered incomplete and ineligible for payment consideration. The City shall initiate authorization for payment after receipt of a satisfactorily completed invoice form and shall make payment to the Contractor through KCDA within approximately thirty (30) calendar days thereafter. Progress payments shall be subject to retainage in accordance with subsection 7(b) below.

d. Withholding for Defective or Unauthorized Work. The City reserves the right to withhold payment from the Contractor for any defective or unauthorized work. Defective or unauthorized work includes, without limitation: work and materials that do not conform to the requirements of the Contract Documents; and extra work and materials furnished without the City's written approval. If, during the course of the Contract, the work rendered does not meet the requirements set forth in the Contract Documents, the Contractor shall correct or modify the work to comply with the requirements of the Contract Documents. The City shall have the right to withhold payment for such work until it meets the requirements of the Contract Documents. The City's decision not to, or failure to, withhold payment shall not constitute a waiver of the City's right to final inspection and acceptance of the Project.

e. Final Acceptance. Final Acceptance of the Project is determined when the Project is accepted by the Public Works Director or designee as being one hundred percent (100%) complete.

f. Final Payment: Waiver of Claims. The Contractor must request all changes and equitable adjustments, as provided for in Section 6, prior to seeking final payment. The Contractor's acceptance of final payment shall constitute a waiver of the Contractor's claims, except those previously and properly made and identified by the Contractor as unsettled at the time final payment is made and accepted.

g. Maintenance and Inspection of Financial Records. The Contractor shall maintain reasonable books, accounts, records, documents, and other evidence pertaining to the costs and expenses incurred and the consideration paid under this Contract, in accordance with reasonable and customary accepted accounting practices. All such records and accounts shall be subject to inspection and audit by representatives of City and the Washington State Auditor at all reasonable times and the Contractor shall provide the City copies upon request. The Contractor shall preserve and make available all such records and accounts for a period of three (3) years after final payment under this Contract.

5. Time is of the Essence/Liquidated Damages.

Time is of the essence in the performance of this Contract. The Contractor shall diligently pursue the Project work to physical completion by the date specified in Section 2. If said work is not completed within the time specified, the City will suffer harm, and the Contractor agrees to

pay the City, as liquidated damages and for each and every calendar day said work remains uncompleted after expiration of the specified time, the sum set forth in Section 1-08.9 of the most recent edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction, published by the Washington State Department of Transportation and incorporated herein by this reference and includes supplemental Section 1-08.9(1) included in Exhibit B. This amount shall be fixed as liquidated damages that the City will suffer by reason of such delay and not as a penalty. The City will have the right to deduct and retain the amount of liquidated damages from any amounts due or to become due to the Contractor. The Contractor shall not be liable for liquidated damages if the delay was due to causes not reasonably foreseeable to the parties at the time of contracting or causes that are entirely beyond the control and without the fault or negligence of the Contractor.

6. Changes.

The City may issue a written change order for any change in the work specified in the Contract Documents during the performance of the Contract. If the Contractor determines, for any reason, that a change order is necessary, the Contractor must submit a written change order request to the City's Contract Representative within fourteen (14) calendar days of the date the Contractor knew or should have known of the facts and events giving rise to the requested change. If the Contractor fails to request a change order within the time specified in this paragraph, the Contractor waives its right to make any claim or submit subsequent change order requests for that portion of the Project.

If the City determines that the change order increases or decreases the Contractor's costs or time for completion, the City will make an equitable adjustment. The City will attempt, in good faith, to reach agreement with the Contractor on all equitable adjustments. However, if the parties are unable to agree, the City will determine the equitable adjustment as it deems appropriate. The Contractor shall proceed with the change order work upon receiving either a written change order from the City or an oral order from the City before actually receiving the written change order.

The Contractor accepts all requirements of a change order by (1) endorsing it, (2) writing a separate acceptance, or (3) not protesting it within five (5) business days. A change order that is accepted by the Contractor as provided in this section shall constitute full payment and final settlement of all claims for direct, indirect, and consequential costs, including costs of delays related to any work, either covered or affected by the change.

7. Bonding and Retainage.

a. Payment and Performance Bond. Pursuant to Chapter 39.08 RCW, the Contractor shall provide the City a payment and performance bond for the Total Contract Sum to be in effect until the later of: sixty (60) days after the date of Final Acceptance, receipt of all necessary releases from applicable state agencies, or until settlement of any liens filed under Chapter 60.28 RCW.

b. Retainage. The City shall withhold retainage in the amount of five percent (5%) of any and all payments made to the Contractor until the later of: sixty (60) days after the date of Final Acceptance, receipt of all necessary releases from applicable state agencies, or until

settlement of any liens filed under Chapter 60.28 RCW. The amount retained shall be placed in a fund by the City pursuant to RCW 60.28.011(4)(a), unless otherwise instructed by the Contractor within fourteen (14) calendar days of Contractor's execution of this Contract.

8. Termination of Contract.

a. Termination. The City may terminate this Contract and take possession of the premises and all materials thereon and finish the Project by whatever methods it may deem expedient, by giving ten (10) business days written notice to the Contractor, upon the occurrence of any one or more of the following: (1) The Contractor makes a general assignment for the benefit of its creditors, has a receiver appointed as a result of insolvency, or files for bankruptcy; (2) The Contractor persistently or repeatedly refuses or fails to complete the work herein necessary to complete the Project; (3) The Contractor fails to make prompt payment to a subcontractor for material or labor; (4) The Contractor persistently disregards instructions of the City's Contract Representative or otherwise substantially violates the terms of this Contract; or (5) The Contractor persistently disregards federal, state, or local laws, ordinances, regulations, or codes.

b. Payment in the Event of Termination. In the event this Contract is terminated by either party, the Contractor shall not be entitled to receive any further amounts due under this Contract until the work specified in the Contract Documents is satisfactorily completed, as scheduled, up to the date of termination. At such time, if the unpaid balance of the amount to be paid under this Contract exceeds the expense incurred by the City in finishing the Project and all damages sustained by the City or which may be sustained by reason of such refusal, neglect, failure, or discontinuance of performance, such excess shall be paid by the City to the Contractor. Such expense and damages shall include all reasonable legal expenses and costs incurred by the City to protect the rights and interests of the City under the Contract.

9. Contractor's Status as Independent Contractor.

The Contractor is a licensed, bonded, and insured contractor as required and in accordance with the laws of the State of Washington. The Contractor is acting as an independent contractor and has the ability to control and direct the performance and details of its work in the performance of each and every part of this Contract. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership, or agency between the Contractor and the City. No officer, employee, volunteer, agents, contractors, or subcontractors of the Contractor shall act on behalf of or represent him or herself as an agent or representative of the City. The Contractor and its officers, employees, volunteers, agents, contractors, and subcontractors shall not make a claim of City employment and shall not make a claim against the City for any employment related benefits, social security, and/or retirement benefits. The Contractor shall be solely responsible for compensating its officers, employees, volunteers, agents, contractors, and subcontractors and for paying all related taxes, deductions, and assessments, including, but not limited to, applicable use and sales taxes, 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 Contract.

10. Prevailing Wages.

This Contract is subject to the requirement of Chapter 39.12 RCW and no worker, laborer, or mechanic employed in the performance of any part of this Contract shall be paid less than the prevailing rate of wage as determined by the Industrial Statistician of the Department of Labor and Industries for the State of Washington. The Contractor shall assure that it and any subcontractors fully comply with the requirements of Chapter 39.12 RCW, Chapter 49.28 RCW, and any further laws or regulations applicable because of federal funding, including the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5) and the Copeland “Anti–Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3) and ensure that any subcontractors also comply with these requirements.

The State of Washington prevailing wage rates for Snohomish County apply to work performed under this Contract. The applicable prevailing wage rates may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx> A copy of the applicable prevailing wage rates are available for viewing at the City and upon request, the City will mail a hard copy of the applicable prevailing wages.

11. Contractor’s Risk of Loss.

The Contractor understands that the whole of the work under this Contract is to be done at the Contractor’s risk. The Contractor is familiar with all existing conditions and other contingencies likely to affect the work on the Project, and has made its proposal, bid, or quote accordingly. The Contractor assumes the responsibility and risk of all loss or damage to materials or work which may arise from any cause whatsoever prior to completion of the Project.

12. Indemnification and Hold Harmless.

a. The Contractor 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 in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City.

b. Should a court of competent jurisdiction determine that this Contract 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 Contractor and the City, its officers, officials, employees, and volunteers, the Contractor’s liability hereunder shall be only to the extent of the Contractor’s negligence.

c. The Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW, as provided in RCW 4.24.115. The indemnification obligation under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers compensation acts, disability benefits acts, or other employee benefits acts; provided the Contractor’s waiver of immunity by the provisions of this paragraph extends only to claims against the Contractor by the City and does not include, or extend to, any claims by

the Contractor's employees directly against Contractor. The obligations of the Contractor under this subsection have been mutually negotiated by the parties hereto, and the Contractor acknowledges that the City would not enter into this Contract without the waiver thereof of Contractor.

_____ (City Initials) _____ (Contractor Initials)

d. The provisions of this Section shall survive the expiration or termination of this Contract.

13. Insurance.

a. Insurance Term. The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the Contract and for thirty (30) days after the Final Acceptance date, unless otherwise indicated herein.

b. No Limitation. The Contractor's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Contractor 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. The Contractor's required insurance shall be of the types and coverage as stated below:

- i. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
- ii. 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 liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
- iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

d. Minimum Amounts of Insurance.

The Contractor shall maintain the following insurance limits:

- i. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- ii. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, and a \$2,000,000 products-completed operations aggregate limit.

e. City Full Availability of Contractor Limits. If the Contractor 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 Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

f. Other Insurance Provision. The Contractor'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 Contractor's insurance and shall not contribute with it.

g. Contractor's Insurance for Other Losses. The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Contractor's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers, contractors, or subcontractors as well as to any temporary structures, scaffolding, and protective fences.

h. Waiver of Subrogation. The Contractor and the City waive all rights against each other, any of their subcontractors, sub-subcontractors, agents, and employees, each of the other, for damages caused by fire or other perils to the extent covered by other property insurance obtained pursuant to this Section or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

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

j. Verification of Coverage. The Contractor 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 Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this Contract and evidence of all subcontractors' coverage.

k. Subcontractors. The Contractor shall cause each and every subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by subcontractors. The Contractor shall ensure that the City is an additional insured on each and every subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO Additional Insured endorsement CG 20 38 04 13.

l. Notice of Cancellation. The Contractor shall provide the City and all additional insureds for this work with written notice of any policy cancellation within two business days of its receipt of such notice.

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

14. Additional Responsibilities of the Contractor.

a. Work Ethic. The Contractor shall perform all work and services under and pursuant to this Contract in timely, professional, and workmanlike manner.

b. Safety. The Contractor shall take all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of federal, state, and local laws, ordinances, regulations, and codes. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and the public and shall post danger signs warning against known and unusual hazards. The Contractor shall ensure that all trenches are provided with adequate safety systems as required by RCW Chapter 49.17 and WAC 296-155-650 and -655. The Contractor is responsible for providing the competent person and registered professional engineer required by WAC 296-155-650 and -655.

c. Warranty and Correction of Defects. The Contractor guarantees and warrants all its work, materials, and equipment provided and utilized for the Project to be free from defects, damage, or failure which the City may, in its sole discretion, determine is the responsibility of the Contractor, for a period of one (1) year from the date of Final Acceptance of the Project. The Contractor is liable for any costs, losses, expenses, additional damages including consequential damages suffered by the City resulting from defects in, damage, or failure of the Contractor's work, materials, or equipment including, but not limited to, cost of materials and labor expended by the City in making repairs and the cost of engineering, inspection, and supervision by the City.

i. The Contractor is responsible for correcting all defects in workmanship, materials, or equipment discovered within one (1) year after Final Acceptance.

ii. Within seven (7) calendar days of receiving notice of a defect, the Contractor shall start work to correct such defects and shall complete the work within a reasonable time. After performing corrections, the Contractor is responsible for defects in workmanship, materials, and equipment for one (1) year after the City's acceptance of those corrections.

iii. If damage may result from delay or where loss of service may result, the City may choose to complete such corrections by contract or any other means, in which case the costs associated with correcting the defects and any damages resulting from the defects shall be borne by the Contractor.

iv. If the Contractor fails to correct a defect after receiving notice of the defect from the City or fails to bear the costs associated with correcting a defect, the Contractor will thereafter be considered non-responsible with regards to all City projects for one (1) year following the notice of the defect.

d. Compliance with Laws. The Contractor shall perform all work and services under and pursuant to this Contract in full compliance with any and all federal, state, or local laws, ordinances, regulations, or codes. The Contractor shall obtain a City of Marysville Business License prior to commencement of work under this Contract.

e. Nondiscrimination. The Contractor agrees not to discriminate against any employee or applicant for employment or any other persons in the performance of this Contract because of race, religion, creed, color, national origin, marital status, sex, sexual orientation, gender identity, age, disability, or other circumstances as may be defined by federal, state, or local law, ordinance, or regulation except for a bona fide occupational qualification.

15. City Ownership of Work Products.

All work products (reports, maps, designs, specifications, etc.) prepared by or at the request of the Contractor regarding the planning, design, and construction of the Project shall be the property of the City. The Contractor shall provide the City with paper and electronic copies of all work products in possession or control of Contractor at the time the Contractor requests final payment from or upon written request from the City.

16. Assignment and Subcontractors.

a. The Contractor shall not assign this Contract or any interest herein, nor any money due to or to become due hereunder, without first obtaining the written consent of the City.

b. The Contractor shall not subcontract any part of the work to be performed under this Contract without first obtaining the consent of the City and complying with the provisions of this Section.

c. In the event the Contractor does assign this Contract or employ any subcontractor, the Contractor agrees to bind in writing every assignee and subcontractor to the applicable terms and conditions of the Contract Documents.

d. The Contractor shall, before commencing any work, notify the City in writing of the names of any proposed subcontractors. The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items or materials or equipment), whether initially or as a substitute, against whom the City may have reasonable objection. Each subcontractor or other person or organization shall be identified in writing to the City by the Contractor prior to the date this Contract is signed by the Contractor. Acceptance of any subcontractor or assignee by the City shall not constitute a waiver of any right of the City to reject defective work or work not in conformance with the Contract Documents. If the City, at any time, has reasonable objection to a subcontractor or assignee, the Contractor shall submit an acceptable substitute.

e. The Contractor shall be fully responsible for all acts and omissions of its assignees, subcontractors and of persons and organization directly or indirectly employed by it and of persons and organizations for whose acts any of them may be liable to the same extent that it is responsible for the acts and omissions of person directly employed by it.

f. The Contract does not and shall not create or be construed to create any relationship, contractual or otherwise, between the City and any subcontractor or assignee. Nothing in the Contract shall create any obligation on the part of the City to pay or to assure payment of any monies due any subcontractor or assignee.

17. Notices and Contract Representatives.

All notices under this Contract shall be sent by registered or certified mail, postage prepaid, or hand-delivered to the addresses for each Contract Representative listed below. When hand delivered, notices are deemed effective on the date of receipt. When mailed, notices are deemed effective three (3) business days after deposit in the U.S. mail.

This Contract shall be administered for the City by the City's Contract Representative, Jeremie Roth, and shall be administered for the Contractor by the Contractor's Contract Representative, Jeff Hansen. The parties may designate different Contract Representatives by sending written notice to the other party.

To the City: Jeremie Roth, Parks Maintenance Supervisor
City of Marysville
80 Columbia Avenue
Marysville, WA 98270

To Contractor: Jeff Hansen
AllPlay System, LLC
PO Box 1886
Sequim, WA 98383

18. Conflict and Severability.

If a court of competent jurisdiction holds any part, term, or provision of this Contract 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 Contract did not contain the particular part, term, or provision held to be invalid.

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

19. Integration, Supersession, and Modification.

This Contract, together with the Contract Documents, exhibits, and attachments represents the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may be amended, modified, or added to only by a written amendment properly executed by both parties.

20. Non-Waiver.

A waiver by either party of a breach by the other party of any covenant or condition of this Contract 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 Contract, 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.

21. Survival.

Any provision of this Contract which imposes an obligation after termination or expiration of this Contract shall survive the term or expiration of this Contract and shall be binding on the parties to this Contract.

22. Third Parties.

The City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to third persons.

23. Governing Law.

This Contract shall be governed by and construed in accordance with the laws of the State of Washington.

24. Venue.

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

25. Attorney Fees.

Should either the City or the Contractor commence any legal action relating to the provisions of this Contract or the enforcement thereof, the prevailing party shall be awarded judgment for all costs of litigation including, but not limited to, costs, expert witnesses, and reasonable attorney fees.

26. Authority to Bind Parties and Enter into Contract.

The undersigned represent that they have full authority to enter into this Contract and to bind the parties for and on behalf of the legal entities set forth herein.

27. Counterparts.

This Contract 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 Contract.

DATED this _____ day of _____, 20_____.

CITY OF MARYSVILLE

By: _____
Jon Nehring, Mayor

DATED this _____ day of _____, 20_____.

_____(CONTRACTOR)

By: _____

_____(Name)

Its: _____(Title)

Attested/Authenticated:

_____, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

EXHIBIT A
Scope of Work and Contract Documents



AllPlay Systems, LLC
 P.O. Box 1886
 Sequim, WA 98382

Quotation

Toll Free: 888.531.4881
 Fax: 888.655.6412
 Email: jeff@allplaysystems.com

Jeff Hansen
 (425) 766-7822

Project: KCDA - Parkside Way Park Playcraft OPT 2
 Date: 2/26/2024

Prepared for: Jesse Birchman
 Quote valid until: 3/27/2024

Bill To:
 KCDA
 18639 80th Ave S,
 Kent, WA 98032

 Contact: Karri Wymann
 Phone: 425-251-8115
 Email: kwymann@kcda.org

Ship To:
 Parkside Way Park
 7727 64th Place NE
 Marysville, WA, 98270

 Contact:
 Phone:
 Email:

Vendor	Item Description	Model	Qty	Unit Price	Total Price
Playcraft	R5 Custom Play System - R50C7BA3A		1	\$111,654.00	\$111,654.00
	R5 Custom Activity Panel Clubhouse - R502A452A		1	\$17,476.00	\$17,476.00
KCDA	KCDA Contract Discount (10%)		1	-\$12,913.00	-\$12,913.00
	Freight to Redmond (Playcraft)		1	\$2,950.00	\$2,950.00
	Demo and Disposal of existing structure and EWF		1	\$18,565.00	\$18,565.00
	Installation of the above Play Equipment		1	\$50,361.00	\$50,361.00
	Provide and lay fabric, spread EWF on site		1	\$3,619.00	\$3,619.00
	220 lineal feet of Construction Fencing for job		1	\$1,440.00	\$1,440.00
	75 Cubic Yards of EWF with Dump Delivery		1	\$6,267.00	\$6,267.00
	Payment and Performance Bond (3%)		1	\$5,983.00	\$5,983.00

Additional Info:

The attached quote reflects the KCDA Playground and surfacing contract #22-315

Subtotal \$205,402.00
 Tax 9.4% \$19,307.79
Total \$224,709.79

Payment terms: KCDA Purchasing contract terms apply. The customer is responsible for final quantity count and the unloading of freight at site. The customer must report all freight damage and missing items within 2 business days of delivery of items.

Written approval must be received prior to order initiation. By signing, dating, and returning this document, the customer accepts these terms and authorizes Allplay Systems, LLC to order the items as listed above.

Customer Signature: _____

Date: _____



PARKSIDE WAY PARK - OPTION 2



PARKSIDE WAY PARK OPTION 2

TOP VIEW

ADA ACCESSIBILITY GUIDELINES - ADAAG CONFORMANCE

ELEVATED	ACCESSIBLE	RAMP ACCESSIBLE	GROUND	TYPES
10	9/6	0/0	4/4	3/3
CHILD CAPACITY	99	MAX FALL HEIGHT	120	

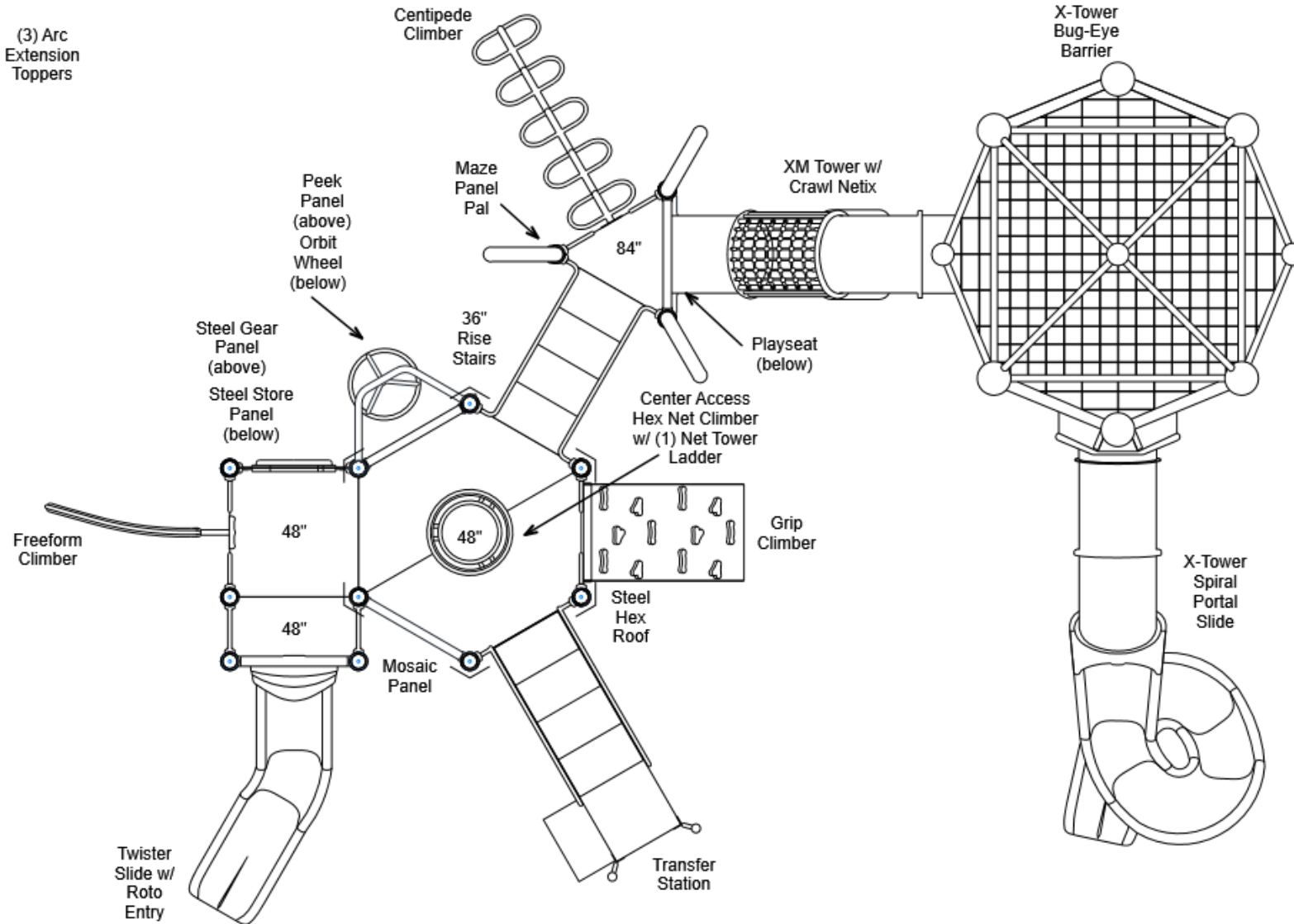
R5

FOR KIDS
AGES
5-12

GENERAL NOTES

This conceptual plan is based on information provided prior to construction. Detailed site information, including the following, should be obtained, evaluated, and utilized in the final project design. Exact site dimensions, topography, existing utilities, soil conditions and drainage solutions.

WARNING: Accessible safety surfacing material is required beneath and around this equipment that has a critical height value (Fall Height) appropriate for the highest accessible part of this equipment. Refer to the CPSC'S Handbook For Public Playground Safety, Section 4: Surfacing.



STRUCTURE # R50C7BA3A
PROJECT # APS242A268A-2
DATE 2/26/2024

AllPlay Systems

MIN. USE ZONE 49' x 39' (14.849m x 11.735m)

PARKSIDE WAY PARK OPTION 2

TOP VIEW

ADA ACCESSIBILITY GUIDELINES - ADAAG CONFORMANCE

ELEVATED	ACCESSIBLE	RAMP ACCESSIBLE	GROUND	TYPES
0	0/0	0/0	5/0	3/0
CHILD CAPACITY	13	MAX FALL HEIGHT	24	

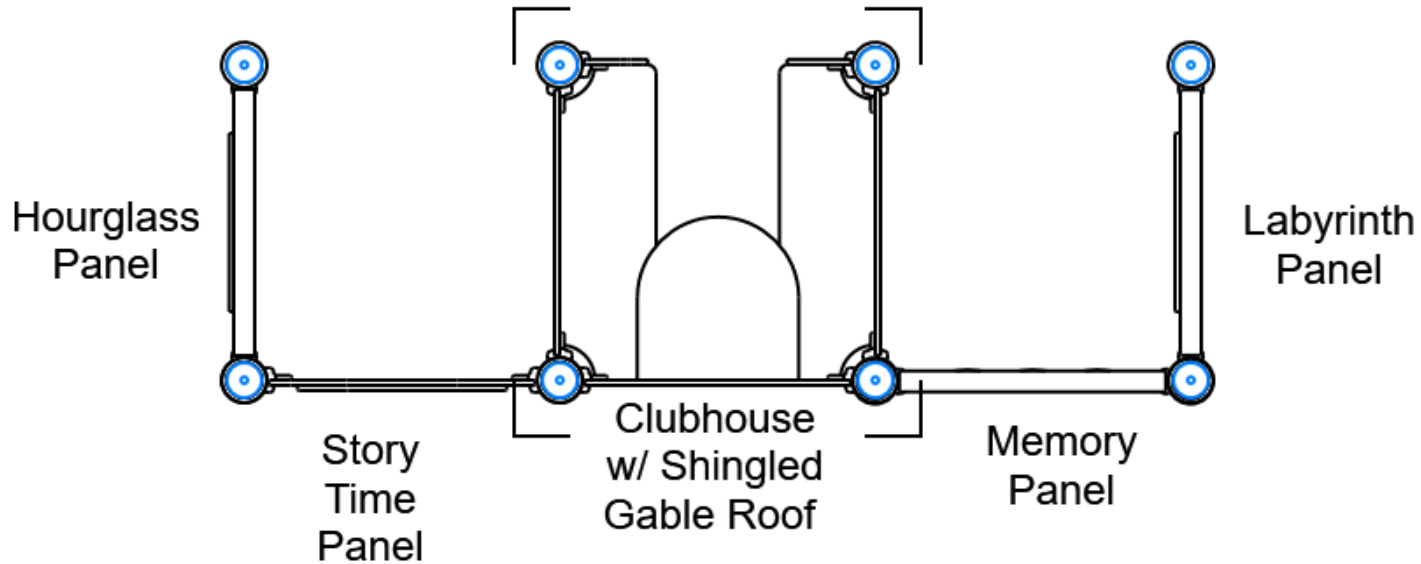
R5

FOR KIDS
AGES
2-5

GENERAL NOTES

This conceptual plan is based on information provided prior to construction. Detailed site information, including the following, should be obtained, evaluated, and utilized in the final project design. Exact site dimensions, topography, existing utilities, soil conditions and drainage solutions.

WARNING: Accessible safety surfacing material is required beneath and around this equipment that has a critical height value (Fall Height) appropriate for the highest accessible part of this equipment. Refer to the CPSC'S Handbook For Public Playground Safety, Section 4: Surfacing.



STRUCTURE # R502A452A
PROJECT # APS242A268A-2
DATE 2/26/2024

AllPlay Systems

MIN. USE ZONE 12' x 5' (3.556m x 1.27m)



PARKSIDE WAY PARK OPTION 2

SITE PLAN

ADA ACCESSIBILITY GUIDELINES - ADAAG CONFORMANCE

ELEVATED	ACCESSIBLE	RAMP ACCESSIBLE	GROUND	TYPES
10	9/5	0/0	9/3	4/3

R5

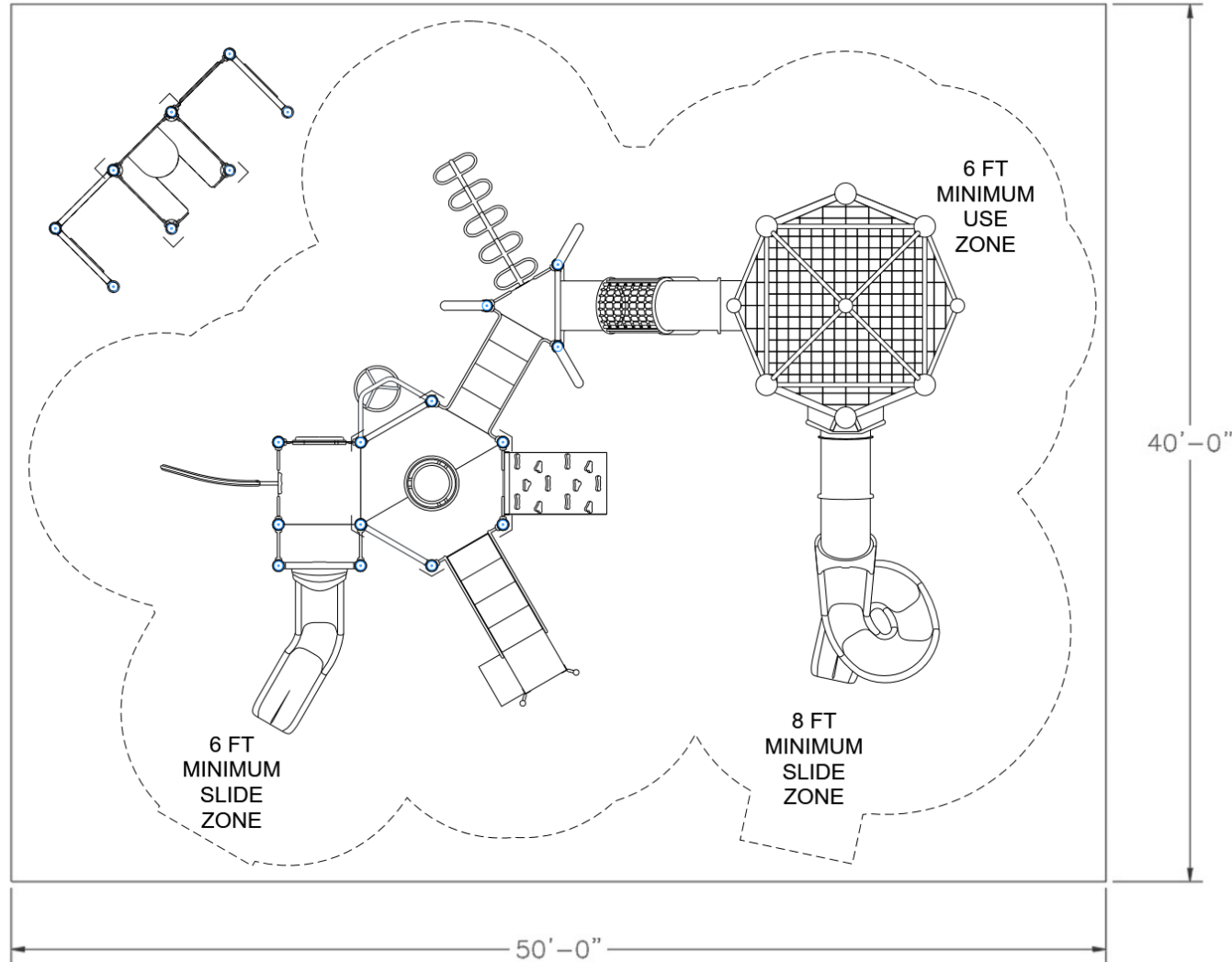
FOR KIDS
AGES
[Mixed]

GENERAL NOTES

This Preliminary Site Plan is based on measurements that were provided in the initial planning phase. All dimensions must be verified prior to the submission of a purchase order. Playcraft Systems will not be held responsible for any discrepancies between actual dimensions and dimensions submitted in the planning phase.

The Minimum Use Zone for a play structure is based on the product design at the time of proposal. Components and structure designs may be subject to change which may affect dimensions. Therefore, before preparing the site, we strongly recommend obtaining final drawings from the factory (available after the order is placed and included in the Assembly Manual).

WARNING: Accessible safety surfacing material is required beneath and around this equipment that has a critical height value (Fall Height) appropriate for the highest accessible part of this equipment. Refer to the CPSC'S Handbook For Public Playground Safety, Section 4: Surfacing.



PROJECT # APS242A268A-2
DATE 2/26/2024

AllPlay Systems

MIN. USE ZONE 49' x 39' (14.849m x 11.735m)



PARKSIDE WAY PARK OPTION 2
SW VIEW

R5

FOR KIDS
AGES
5-12



STRUCTURE # R50C7BA3A
PROJECT # APS242A268A-2
DATE 2/26/2024

PARKSIDE WAY PARK OPTION 2
NE VIEW

R5

FOR KIDS
AGES
5-12



STRUCTURE # R50C7BA3A
PROJECT # APS242A268A-2
DATE 2/26/2024

PARKSIDE WAY PARK OPTION 2
SW VIEW

R5

FOR KIDS
AGES
2-5



STRUCTURE # R502A452A
PROJECT # APS242A268A-2
DATE 2/26/2024

PARKSIDE WAY PARK OPTION 2
NE VIEW

R5

FOR KIDS
AGES
2-5



STRUCTURE # R502A452A
PROJECT # APS242A268A-2
DATE 2/26/2024

PARKSIDE WAY PARK OPTION 2

Project # APS242A268A-2

Date 2/26/2024

Item / Part Number	Description	Qty
[R50C7BA3A]		
HS-1004-R	Collars	48
GF-7002	Dome Cap, R5	4
S-1011-R5-11ft	Post, 11ft R5	4
S-1014-R5-14ft	Post, 14ft R5	3
S-1015-R5-15ft	Post, 15ft R5	6
S-11011-13011-R5	Half Square Deck w Walls R5	1
S-1101-R5	Square Deck	1
S-1102-R5	Tri-Deck	1
S-1206-36R5	ADA Stairs, 36in Rise w/ Walls	1
S-1209-36-R5	Transfer Station, 48in-L	1
S-1216-4	Climber, Grip 42-48in	1
S-1220-7	Climber, Centipede 78-84in	1
S-1238-4	Climber, Freeform 42-48in	1
S-1293-R5	Net Tower Ladder	1
S-1309-2-R5	Half Walls (Pair) R5	3
S-1316-RE-R5	Roto Twister Entry Panel	1
S-13601-1BUG	X-Tower Bug-Eye Barrier	1
S-1610-R5	Peek Panel	1
S-1615-STL-GM-R5	Store Panel (Steel)	1
S-1644-STL-R5	Gear Panel (Steel)	1
S-1663-R5	Panel Pal, Maze	1
S-1685-R5	Mosaic Panel	1
S-1709-X2SP-L	X-Tower Spiral Portal Slide Left	1
S-1710-4-R	Slide, Twister 48in (R)	1
S-1803-R5STL	Metal Roof, Hex	1
S-1850-R5	Arc Extension Topper	3
S-1926-SR5	Center Access Hex Net Deck (48in)	1
S-1928-XMN	XM Tower w/ Crawl Netix	1
S-1945-R5	Orbit Wheel	1
S-1962-R5	Playseat	1
[R502A452A]		
HS-1004-R	Collars	17
GF-7002	Dome Cap, R5	4
S-1007-R5-07ft	Post, 07ft R5	4
S-1009-R5-09ft	Post, 09ft R5	4
S-16071-R5G	Story Time Panel	1

PARKSIDE WAY PARK OPTION 2

Item / Part Number	Description	Qty
S-1608-R5G	Memory Panel	1
S-1630-R5G	Hourglass Panel	1
S-1634-R5G	Labyrinth Panel	1
S-1639-R5	Clubhouse	1
S-1808-R5	Roof, Gable (Shingled)	1



MEMORANDUM

FROM: Jesse Birchman
Transportation & Parks Maintenance Manager

DATE: February 13, 2023

SUBJECT: Parkside Way Park Playground Equipment

This memorandum outlines the City of Marysville, WA's request for proposals for the installation of new playground equipment at its Parkside Way Park (7727 64th PI NE) via KCDA's awarded contracts for Playground Equipment. An aerial rendering highlighting the play area is attached. A copy of the City's supplemental contract template is also attached with fillable fields completed based on final negotiations with a selected contractor. Project details include:

- Play area – approximately up to 2,000 square feet (40'x'50')
- Not to exceed budget - \$270,000
 - Inclusive of play surfacing materials, preparation, and installation
 - Inclusive of sales tax for equipment, preparation, and installation
- **Proposal deadline - before 12:00 PM Thursday February 29, 2024** via web-based digital file upload to the following link:
<http://docs.marysvillewa.gov/htcomnet/public/?folder=33d756b3>
This link will be disabled at the above deadline.
- Questions shall be sent via email to both Jesse Birchman (jbirchman@marysvillewa.gov) and Jeramie Roth (Parks Maintenance Supervisor, jroth@marysvillewa.gov) by 4:00 PM Friday 2/23/24 to ensure responses will be shared with all firms the morning of Tuesday 2/27/24.

Following city staff's selection of a preferred proposal, staff will coordinate any minor design or equipment modifications followed by final pricing and proposal terms with the preferred contractor.

Design and equipment proposals for this playground shall address and include the following:

- At least one structure for Ages 5-12 years
 - Additional proposals for separate or combined 2-5 years and 5-12 structures and/or features are encouraged within the maximum of three proposals.
- A minimum of 2 slides.
- Swings are separately provided on-site and should not be included.
- Separate play equipment for Ages 2-5 years
- ADA accessible play equipment is encouraged but is not required.
- Engineered Wood Fiber play surfacing with all necessary subgrade preparation. Other surfacing types are not desired considering neighborhood park visitor volumes and visibility/vandalism maintenance activity.
- Removal and disposal of all native soils, and/or addition of any borrow soils or aggregate necessary for playground surfacing and play equipment installation.

- All equipment and safety zones shall be located within the existing concrete boarder. The selected preferred vendor shall field-verify existing dimensions before final contracting.
- Identification and summary of any equipment manufacturer or contractor warranties
- Contractor installation of all playground surfacing and play equipment
- Final proposals shall be valid for a minimum of 60 days for the city to complete procurement authorization through City Council approval
- Identify three (3) public agency or school district references

The selected proposal procured by the City must satisfy the contract terms supplemental to the KCDA contract that are attached to this request for proposal. Notable terms include the following:

- This effort is considered a “public work” and shall comply with state requirements summarized here. <https://www.kcda.org/contracts-bids/public-works-procedures>
- Liquidated damages should completion extend beyond agreed upon working days negotiated for the preferred proposal. Working days are typically non-holiday weekdays where weather conditions do not affect construction. Additional working days are provided at City discretion for weather.
- Contractor to apply for and receive approved Building and Grading permits to accomplish the work. Permit fees are waived/paid for by the City.
- Prevailing wages
- Licensed and bonded;
- A payment and performance bond
- A City business license
- Industrial insurance coverage
- Builders Risk insurance
- Insurance coverage and naming the City additionally insured with the following.
 - Commercial General Liability at \$1 million limit, \$2 million general aggregate, and \$2 million products-completed operations aggregate, and
 - Automobile liability at \$1 million per accident.
 - Additional details will be provided to the preferred contractor.
- Not disqualified/debarred from public works contracts

No more than three design alternatives/proposals will be accepted for review from any individual contractor.

Proposals will be deemed non-responsive and disqualified from consideration as follows:

- A. If more than three submittals are received from a single contractor, all of that contractor’s submittals will be deemed non-responsive and disqualified.
- B. Proposals that exceed the identified budget.
- C. Proposals received after the deadline above. It is the submitters’ responsibility to ensure receipt and usability of proposals before the deadline.

Attachments: Supplemental agreement template
Parkside Way Park aerial images

S:\Parks\PARKS, TRAILS & FACILITIES\Parkside Way Park\2023 Playground Replacement\Solicitation\RFP-Parkside Way Playground 2024-02.docx



Search by MVID or ASBUIL

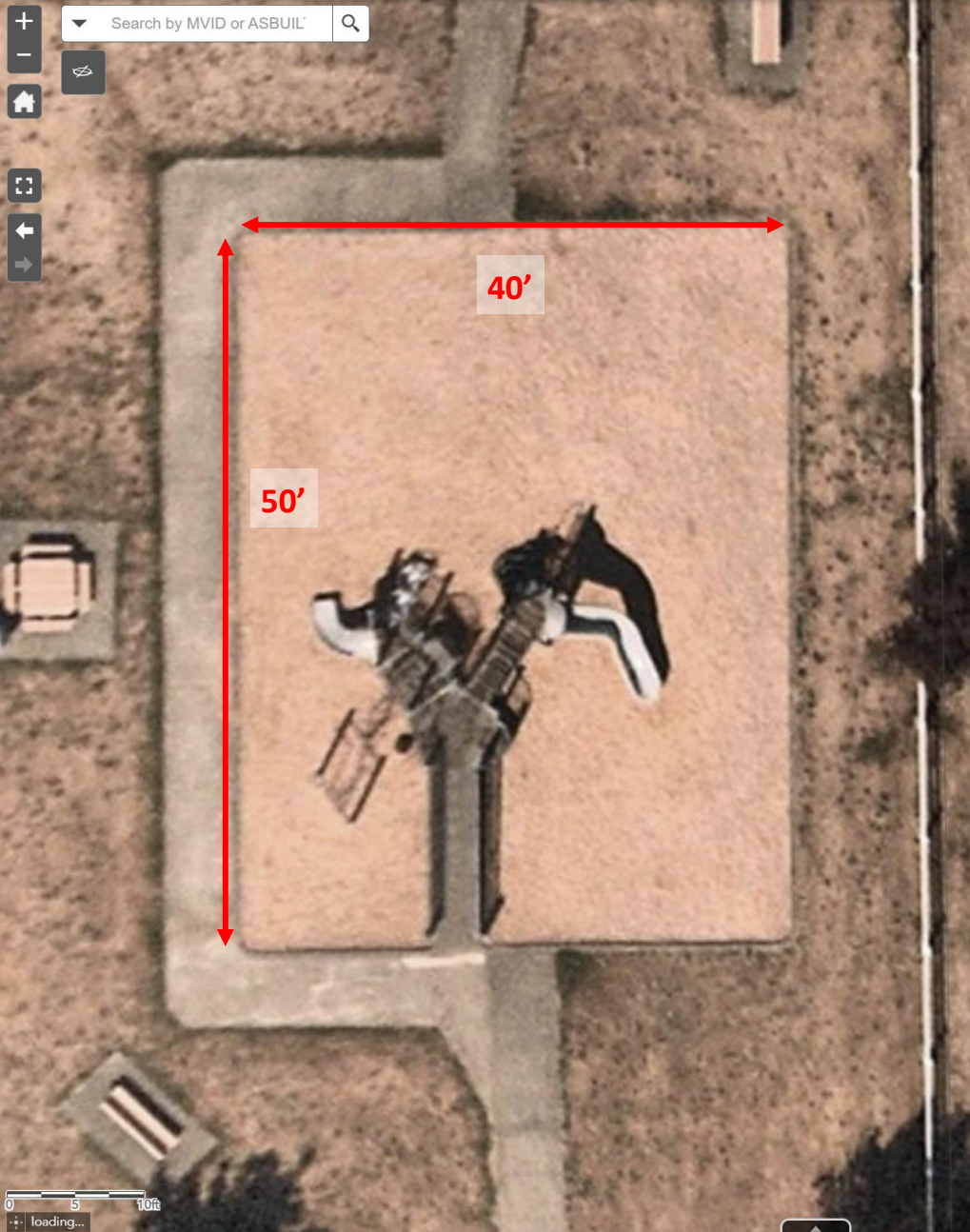


EXHIBIT B

Liquidated Damages

1-08.9 Liquidated Damages

(March 3, 2021 APWA GSP, Option B)

Revise the second and third paragraphs to read:

Accordingly, the Contractor agrees:

1. To pay (according to the following formula) liquidated damages for each working day beyond the number of working days established for Physical Completion, and
2. To authorize the Engineer to deduct these liquidated damages from any money due or coming due to the Contractor.

Liquidated Damages Formula

$$LD=0.15C/T$$

Where:

LD = liquidated damages per working day (rounded to the nearest dollar)

C = original Contract amount

T = original time for Physical Completion

When the Contract Work has progressed to Substantial Completion as defined in the Contract, the Engineer may determine the Contract Work is Substantially Complete. The Engineer will notify the Contractor in writing of the Substantial Completion Date. For overruns in Contract time occurring after the date so established, the formula for liquidated damages shown above will not apply. For overruns in Contract time occurring after the Substantial Completion Date, liquidated damages shall be assessed on the basis of direct engineering and related costs assignable to the project until the actual Physical Completion Date of all the Contract Work. The Contractor shall complete the remaining Work as promptly as possible. Upon request by the Project Engineer, the Contractor shall furnish a written schedule for completing the physical Work on the Contract.



PUBLIC WORKS DEPARTMENT
 80 Columbia Ave.
 Marysville, WA 98270
 (360) 363-8100

Purchase Order

Show this Purchase Order Number
 on all correspondence, invoices,
 shipping papers and packages.

P NO 0682

TO: King County Directors Association
P.O. Box 5550
Kent, WA 98064-5550

DATE	ACCT. CODE <u>31000076.563000.P2401</u>	ORDER NO.
SHIP TO <u>Marysville Public Works</u> <u>80 Columbia Ave</u> <u>Marysville, WA 98271</u>		

ATTENTION: Karri Wyman, kwyman@kcda.org, 425-282-0533

REQUESTED BY	DATE EXPECTED	F.O.B. POINT	SHIP VIA	SUBLET QUOTE	EQUIP. / VEH. NO.
<u>Jeramie Roth</u>					

FAX: _____

QTY	REC	B/O	ITEM NO. / DESCRIPTION	UNIT PRICE	EXTENSION	TAX / SHIP	TOTAL	RTY	W/O NO.
			<u>Parkside Way Park Playground Replacement</u>						
			<u>Quote dated 2/26/2024, Playcraft OPT 2</u>						
			<u>AllPlay Systems, LLC</u>				<u>224,709.79</u>		
			<u>(WST Incl.)</u>						

NOTES: _____

SITE/PROJECT NAME: _____

 AUTHORIZED BY:

 RECEIVED BY:



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: City Attorney Jon Walker, Legal

ITEM TYPE: Agreement

AGENDA SECTION: **Consent**

SUBJECT: Interlocal Agreement with Snohomish County for Affordable Housing and Behavioral Health Fund

SUGGESTED ACTION: Recommended Motion: I move to authorize the mayor to sign and execute the Interlocal Agreement with Snohomish County for Affordable Housing and Behavioral Health Fund.

SUMMARY:

The purpose this ILA is to provide funding recommendations for affordable housing and behavioral health facilities. The County has revenue from a 1/10 of 1% sales tax and a state tax credit. The County will put out funding applications for these funds starting this year. The County has existing ILAs with the cities and towns , including Marysville to make funding recommendations for several source of funding that the County receives. This ILA adds the AHBH Capital funding to the existing process which includes the Technical Advisory Committee (TAC) and Policy Advisory Board (PAB).

Each city/town appoints a representative to sit on the Technical Advisory Committee and those members review the applications and make recommendations to the Policy Advisory Board (PAB). The City of Marysville has appointed a TAC representative for many years to participate in making funding recommendations. TAC members review applications for funding and make funding recommendations to the PAB.

The cities/towns also appoint representatives to the PAB during their meeting in January of each year. The PAB reviews TAC recommendations and makes recommendations to County Council.

ATTACHMENTS:

[AHBH ILA Letter.pdf](#)

[AHBH Capital Facilities -ILA.pdf](#)

Dave Somers
County Executive

3000 Rockefeller Ave., M/S 407
Everett, WA 98201-4046
(425) 388-3460
www.snoco.org

March 11, 2024

Honorable Mayors
Snohomish County, WA

Re: Interlocal Agreement Affordable Housing and Behavioral Health Fund

Dear Mayors:

In December 2023, the Snohomish County Council approved the Housing and Behavioral Health Capital Fund: An Investment Plan to Preserve and Build Affordable Housing and Behavioral health Facilities in Snohomish County. The Plan informs decision-making regarding the use of the Affordable and Supportive Housing Tax Credit Fund (SHB 1406) and the 0.10 percent sales tax for affordable housing and behavioral health facilities (HB 1590).

Affordable Housing and Behavioral Health Investment Plan:

<https://www.snohomishcountywa.gov/DocumentCenter/View/110879/Housing-and-Behavioral-Health-Capital-Fund?bidId=>

Attached you will find the Affordable Housing and Behavioral Health Fund (AHBH) Interlocal Agreement creating a collaborative award process for the Snohomish County Affordable Housing and Behavioral Health Facilities Fund. These funds will help create increased access to affordable housing and behavioral health services for vulnerable residents.

We have been using an existing process since the 1990's to make awards for affordable housing and various types of public facilities. The AHBH ILA will provide for using the existing Technical Advisory Committee to review applications for AHBH funding and for making funding recommendations to the existing Policy Advisory Board. The AHBH ILA includes all of the cities/towns and the County in the awarding process.

I look forward to working collaboratively in making recommendations for the AHBH fund. If you have any questions, please reach out to Jackie Anderson (Division Manager, Housing and Community Services, in the Human Services Department) at Jackiem.Anderson@snoco.org or (425) 388-3237.

Sincerely,



Dave Somers
Snohomish County Executive

**INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND
THE LOCAL AGENECIES OF ARLINGTON, BRIER, BOTHELL,
DARRINGTON, EDMONDS, EVERETT, GOLD BAR, GRANITE FALLS,
INDEX, LAKE STEVENS, LYNNWOOD, MARYSVILLE, MILL CREEK,
MONROE, MOUNTLAKE TERRACE, MUKILTEO, SNOHOMISH,
STANWOOD, SULTAN, AND WOODWAY FOR THE PURPOSE OF
CREATING AN AWARD PROCESS FOR TAX REVENUES FROM
CHAPTERS 4.122 AND 4.126 SNOHOMISH COUNTY CODE**

This Affordable Housing and Behavioral Health Capital Facilities Interlocal Agreement (“Agreement”) is made and entered into by the Snohomish County, a political subdivision of the State of Washington (“County”), and the Local Agencies of Arlington, Brier, Bothell, Darrington, Edmonds, Everett, Gold Bar, Granite Falls, Index, Lake Stevens, Lynnwood, Marysville, Mill Creek, Monroe, Mountlake Terrace, Mukilteo, Snohomish, Stanwood, Sultan, and Woodway (collectively the “Parties” and, individually, a “Party”).

RECITALS

WHEREAS, chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes public agencies to enter into cooperative agreements with one another to make the most efficient use of their respective resources; and

WHEREAS, the Washington State Legislature passed Substitute House Bill (SHB) 1406, which was signed into law as Chapter 338, Laws of 2019, and codified at RCW 82.14.540; and

WHEREAS, RCW 82.14.540 authorizes counties to impose a sales tax for acquisition, rehabilitation or construction of affordable housing or new units of affordable housing within an existing structure or facility providing supportive housing services; operating and maintenance costs for new affordable or supportive housing, rental assistance for tenants, and administration; and

WHEREAS, the Snohomish County Council passed Ordinance 19-0621 imposing a sales and use tax to provide for affordable housing and supportive housing, creating the affordable and supportive housing sales tax credit fund, and adding new chapter 4.122 to Snohomish County Code; and

WHEREAS, the Washington State Legislature in 2020 passed HB 2019, signed into law as Chapter 222 Laws of 2020, and codified at RCW 82.14.530; and

WHEREAS, the Washington State Legislature in 2021 amended RCW 82.14.530; and

WHEREAS, RCW 82.14.530 authorizes counties to impose a sales tax for acquisition and construction of affordable housing, which may include emergency, transitional and supportive housing, and new units of affordable housing within an existing structure, or acquiring and constructing behavioral health-related facilities or land acquisition for these purpose or funding

operations and maintenance cost of new units of affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers; and

WHEREAS, Snohomish County Council passed Ordinance 21-098, imposing a one-tenth of one percent sales tax for affordable housing and behavioral health and adding a new chapter 4.126 to Snohomish County Code; and

WHEREAS, on December 13, 2023, by Amended Motion No. 23-0492, the Snohomish County Council approved the 2023 Housing and Behavioral Health Capital Fund Investment Plan (“Investment Plan”); and

WHEREAS, the Investment Plan was developed to inform decision-making with regard to the use of 1406 and 1590 funds to address housing affordability and behavioral health challenges identified by the County.

AGREEMENT

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

1. **Purpose of this Agreement.** The purpose of this Agreement is to create a funding recommendation process for revenues from the taxes imposed by chapters 4.122 and 4.126 Snohomish County Code.
2. **Term.** The term of this Agreement shall commence on the date the Agreement is fully executed and will remain in full force and effect unless terminated in writing (the “Term”) pursuant to Section 11(n). As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it has (i) been duly executed by all Parties, and (ii) either filed with the County Auditor or posted on the County’s Interlocal Agreements website.
3. **Policy Advisory Board.**
 - a. The Policy Advisory Board as previously established through the Urban County Consortium Interlocal Agreement, and referenced in the Interlocal Agreement for the Purposes of Administering the Affordable Housing Trust Fund recorded June 25, 2004, under Snohomish County recording number 200406250315, shall advise the County Executive and County Council on the planning, administration, and expenditure of funds from the taxes imposed in chapters 4.122 and 4.126 Snohomish County Code in conformance with the Investment Plan.

- b. Each Policy Advisory Board member shall have one vote in the Board's proceedings, except that the ex officio Chairperson shall vote only in the event of a tie.

4. **Technical Advisory Committee.**

- a. The Technical Advisory Committee as previously established through the Urban County Consortium Interlocal Agreement, and referenced in the Interlocal Agreement for the Purposes of Administering the Affordable Housing Trust Fund recorded June 25, 2004, under Snohomish County recording number 200406250315, shall review applications and make recommendations regarding projects to be funded to the Policy Advisory Board.
- b. To the extent possible, the individuals appointed to serve on the Affordable Housing and Behavioral Health Capital Facilities Technical Advisory Committee shall be the same individuals as those appointed to serve on the Urban County and Affordable Housing Technical Advisory Committee, with the addition of one (1) seat for the City of Everett, to be appointed by the City of Everett
- c. Process for recommendations
 - i. The Technical Advisory Committee will review, score and rank applications and make recommendations for funding to the Policy Advisory Board.
 - ii. The Policy Advisory Board will review Technical Advisory Committee recommendations and make recommendations to the County Council.
 - iii. The County Council will review recommendations for funding and determine which projects shall receive funds and amounts thereof.

5. **County Obligations.**

- a. Snohomish County assumes full decision-making authority, including final funding award selections and policy making.
- b. Awards of all funds will be administered by County.
- c. The County will coordinate all activities necessary for the Policy Advisory Board and Technical Advisory Committee to fulfill their obligations under this agreement.

6. **Local Agency Obligations.** Each Local Agency shall:

- a. Fulfill obligations according to Sections 3 and 4 of this Agreement.
- b. Keep appointments to the TAC and PAB up to date, pursuant to TAC and PAB bylaws.

c. Notify the County Administrator of any changes to TAC and PAB appointments.

7. **Budget and Compensation.** The Parties do not anticipate any costs to this Agreement. Funds from taxes imposed by chapter 4.122 and 4.126 Snohomish County Code shall be used to fund the projects recommended by TAC/PAB and approved by the Snohomish County Council.

8. **Indemnification and Hold Harmless.** Subject to the liability limitation stated in Section 9 of this Agreement, each Local Agency shall hold harmless, indemnify, and defend, at its own expense, the County, its elected officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of the Local Agency's performance under this Agreement, including claims by Local Agency employees or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of the County, its elected and appointed officials, officers, employees or agents.

Waiver Under Washington Industrial Insurance Act. The foregoing indemnity is specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, Chapter 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

The provisions of this section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

9. **Limitation of Liability** In no event will County or any Local Agency be liable for any special, consequential, indirect, punitive or incidental damages, including but not limited to loss of data, loss of revenue, or loss of profits, arising out of or in connection with the performance of the County or any Local Agency under this Agreement, even if the County or Local Agency has been advised of the possibility of such damages.

10. **Insurance.** Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying part of the indemnified party(s).

11. **Miscellaneous.**

- a. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document signed by the Party against whom such modification is sought to be enforced.
- b. **No Separate Entity Necessary/Created.** The Parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.
- c. **Ownership of Property.** Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either Party in connection with the performance of this Agreement will remain the sole property of such Party, and the other Party shall have no interest therein.
- d. **Administrators.** Each Party to this Agreement shall designate an individual (an “Administrator”), which may be designated by title or position, to oversee and administer such Party’s participation in this Agreement. The Parties’ initial Administrators shall be the following individuals:

County’s Initial Administrator: Jackie Anderson, Human Services
 Department
 3000 Rockefeller Avenue, M/S 305
 Everett, WA 98201

City of Arlington’s Initial Administrator: Dan Vanney, Mayor
 238 N. Olympic Avenue
 Arlington, WA 98223

City of Bothell’s Initial Administrator: Mason Thompson, Mayor
 18415 101st Avenue NE
 Bothell, WA 98011

City of Brier’s Initial Administrator: Dale Kaemingk, Mayor
 2901 228th St. SW
 Brier, WA 98036

Town of Darrington’s Initial Administrator: Dan Rankin, Mayor
 1005 Cascade St.
 P.O. Box 937
 Darrington, WA 98241

City of Edmond's Initial Administrator: Mike Rosen, Mayor
121 5th Avenue N.
Edmonds, WA 98020

City of Everett's Initial Administrator: Cassie Franklin, Mayor
2930 Wetmore Avenue
Everett, WA 98201

City of Gold Bar's Initial Administrator: Steve Yarbrough, Mayor
107 5th Street
Gold Bar, WA 98251

City of Granite Falls' Initial Administrator: Matt Hartman, Mayor
215 Granite Avenue
P.O. Box 1440
Granite Falls, WA 98252

Town of Index's Initial Administrator: Bruce Albert, Mayor
511 Avenue "A"
Index, WA 98256

City of Lake Steven's Initial Administrator: Brett Gailey, Mayor
1812 Main Street
P.O Box 257
Lake Stevens, WA 98258

City of Lynnwood's Initial Administrator: Christine Frizzell, Mayor
19100 44th Avenue W
Lynnwood, WA 98036

City of Marysville's Initial Administrator: Jon Nehring, Mayor
501 Delta Avenue
Marysville, WA 98270

City of Mill Creek's Initial Administrator: Brian Holtzclaw, Mayor
15728 Main Street
Mill Creek, WA 98012

City of Monroe's Initial Administrator:	Geoffrey Thomas, Mayor 14841 179 th Avenue SE Monroe, WA 98272
City of Mountlake Terrace's Initial Administrator:	Kyoko Matsumoto-Wright, Mayor 23204 58 th Avenue W Mountlake Terrace, WA 98043
City of Mukilteo's Initial Administrator:	Joe Marine, Mayor 11930 Cyrus Way Mukilteo, WA 98275
City of Snohomish's Initial Administrator:	Linda Redmond, Mayor 116 Union Avenue P.O. Box 1589 Snohomish, WA 98291-1589
City of Stanwood's Initial Administrator:	Sid Roberts, Mayor 10220 270 th Street NW Stanwood, WA 98292
City of Sultan's Initial Administrator:	Russell Wiita, Mayor 319 Main Street P.O. Box 1199 Sultan, WA 98294-1199
Town of Woodway's Initial Administrator:	Mike Quinn, Mayor 23920 113 th Place W Woodway, WA 98020

Either Party may change its Administrator at any time by delivering written notice of such Party's new Administrator to the other Party.

- e. **Interpretation.** This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the

plural number, and vice versa, and the use of any gender shall be applicable to all genders.

- f. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.
- g. No Waiver.** A Party's forbearance or delay in exercising any right or remedy with respect to a Default by the other Party under this Agreement shall not constitute a waiver of the Default at issue. Nor shall a waiver by a Party of any particular Default constitute a waiver of any other Default or any similar future Default.
- h. Assignment.** This Agreement shall not be assigned, either in whole or in part, by either of the Parties hereto. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a Default under this Agreement.
- i. Warranty of Authority.** Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the Party for whom he or she purports to sign this Agreement.
- j. No Joint Venture.** Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the Parties.
- k. No Third Party Beneficiaries.** This Agreement is made and entered into for the sole benefit of the Local Agency and the County. No third party shall be deemed to have any rights under this Agreement; there are no third party beneficiaries to this Agreement.
- l. Compliance with Applicable Law.** Each Party shall comply with all other applicable federal, state and local laws, rules and regulations in performing under this Agreement.
- m. Changes.** No changes or additions shall be made to this Agreement except as agreed to by both Parties, reduced to writing, and executed with the same formalities as are required for the execution of this Agreement.
- n. Termination.** The County may terminate this agreement by providing written notice to the other parties of its intention to terminate. Such termination shall become effective 30 days after such notice has been served to the Parties, or such later time as is stated in the notice. Any other party may terminate this agreement as to that Party by

providing written notice to the County of its intention to terminate. Such termination shall become effective 30 days after such notice has been served, or such later time as is stated in notice. Termination by a Party other than the County shall not affect the terms of this agreement as to the other Parties.

- o. Public Records.** All records related to this Agreement shall be available for inspection and copying under the provisions of the Washington Public Records Act, chapter 42.56 RCW (“PRA”), subject to any exemptions or limitations on disclosure. Each Party shall respond to public records requests received by that Party.
- p. Execution in Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

CITY OF ARLINGTON

ATTEST:

DAN VANNEY

BY

MAYOR

TITLE

CITY OF BOTHEL

ATTEST:

MASON THOMPSON

BY

MAYOR

TITLE

CITY OF BRIER

ATTEST:

DALE KAEMINGK

BY

MAYOR

TITLE

TOWN OF DARRINGTON

ATTEST:

DAN RANKIN

BY

MAYOR

TITLE

CITY OF EDMONDS

ATTEST:

MIKE ROSEN

BY

MAYOR

TITLE

CITY OF EVERETT

ATTEST:

CASSIE FRANKLIN

BY

MAYOR

TITLE

CITY OF GOLDBAR

ATTEST:

STEVE YARBROUGH

BY

MAYOR

TITLE

CITY OF GRANITE FALLS

ATTEST:

MATT HARTMAN

BY

MAYOR

TITLE

TOWN OF INDEX

ATTEST:

BRUCE ALBERT

BY

MAYOR

TITLE

CITY OF LAKE STEVENS

ATTEST:

BRETT GAILEY

BY

MAYOR

TITLE

CITY OF LYNNWOOD

ATTEST:

CHRISTINE FRIZZELL

BY

MAYOR

TITLE

CITY OF MARYSVILLE

ATTEST:

JON NEHRING

BY

MAYOR

TITLE

CITY OF MILL CREEK

ATTEST:

BRIAN HOLTZCLAW

BY

MAYOR

TITLE

CITY OF MONROE

ATTEST:

GEOFFREY THOMAS

BY

MAYOR

TITLE

CITY OF MOUNTLAKE TERRACE

ATTEST:

KYOKO MATSUMOTO-WRIGHT

BY

MAYOR

TITLE

CITY OF MUKILTEO

ATTEST:

JOE MARINE

BY

MAYOR

TITLE

CITY OF SNOHOMISH

ATTEST:

LINDA REDMOND

BY

MAYOR

TITLE

CITY OF STANWOOD

ATTEST:

SID ROBERTS

BY

MAYOR

TITLE

CITY OF SULTAN

ATTEST:

RUSSELL WITA

BY

MAYOR

TITLE

TOWN OF WOODWAY

ATTEST:

MIKE QUINN

BY

MAYOR

TITLE

IN WITNESS WHEREOF the Parties execute this Agreement this _____ day of _____, 20____.

SNOHOMISH COUNTY

[Insert Party]

County Executive

[Insert Party Signatory]

RECOMMENDED FOR APPROVAL:

ATTEST:

Approved as to Form only:



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: Teri Lester, Human Resources

ITEM TYPE: Agreement

AGENDA SECTION: **Consent**

SUBJECT: Premera Blue Cross ASC Agreement

SUGGESTED ACTION: Recommended Motion: I move to authorize the Mayor to sign and execute the agreement with Premera Blue Cross.

SUMMARY: Premera Blue Cross continued as the City’s self-insured claims administrator effective January 1, 2024.

WHEREAS, the City of Marysville has established an employee benefit plan which provides for payment of certain welfare benefits to and for certain eligible individuals as defined in writing by the City, and,

WHEREAS, the City of Marysville has chosen to self-insure the benefit program(s) provided under the Plan; and

WHEREAS, the City of Marysville desires to engage the services of Premera Blue Cross as the Claims Administrator to provide administrative services for the Plan.

ATTACHMENTS:
[Proposed Contract.pdf](#)

ADMINISTRATIVE SERVICE CONTRACT

BETWEEN

PREMERA BLUE CROSS

AND

CITY OF MARYSVILLE

EFFECTIVE JANUARY 1, 2024 THROUGH DECEMBER 31, 2024

(THE "CONTRACT PERIOD")

This Contract is effective by and between the group named above (hereinafter referred to as the "Plan Sponsor"), and Premera Blue Cross (hereinafter referred to as the "Claims Administrator" or "we," "us," or "our").

WHEREAS, the Plan Sponsor has established an employee benefit plan (hereinafter referred to as the "Plan") which provides for payment of certain welfare benefits to and for certain eligible individuals as defined in writing by the Plan Sponsor, such individuals being hereinafter referred to as "Members"; and,

WHEREAS, the Plan Sponsor has chosen to self-insure the benefit program(s) provided under the Plan; and

WHEREAS, the Plan Sponsor desires to engage the services of the Claims Administrator to provide administrative services for the Plan;

NOW THEREFORE, in consideration of the mutual covenants and conditions as contained herein the parties hereto agree to the provisions in this Contract, including any Attachments and endorsements thereto. The parties below have signed as duly authorized officers and have hereby executed this Contract.

IN WITNESS WHEREOF the parties hereto sign their names as duly authorized officers and have executed this Contract.

City of Marysville

BY:

DATE:

Title

ADDRESS:

Premera Blue Cross

BY:

DATE: January 1, 2024



Jeffrey Roe
President and Chief Executive Officer

P.O. Box 327
Seattle, WA 98111-0327

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1. DEFINITIONS

Adverse Benefit Determination Any of the following: a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit, including payment that is based on a determination of the eligibility of a Member to participate in the Plan. This includes any denials, reductions, or failures to provide or make payment resulting from the application of utilization review or limitations on experimental and investigational services, medical or dental necessity, or appropriateness of care. It also includes a decision to rescind a Member's coverage unless the rescission is due to nonpayment of subscription charges.

Affordable Care Act The Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152).

Allowed Amount The Plan provides benefits based on the Allowed Amount for covered services. The Plan Sponsor's liability for covered services is calculated on the basis of the Allowed Amount.

The Claims Administrator reserves the right to determine the amount allowed for any given service or supply unless specified otherwise in this Contract. The Allowed Amount is described below. There are different rules for dialysis, emergency care services, and air ambulance services. These rules are shown below the general rules.

a. General Rules

1. Providers In Washington and Alaska Who Have Agreements With the Claims Administrator

For any given service or supply, the amount these providers have agreed to accept as payment in full pursuant to the applicable agreement between the Claims Administrator and the provider.

2. Providers Outside The Service Area Who Have Agreements With Other Blue Cross Blue Shield Licensees

For covered services and supplies received outside the Service Area, Allowed Amounts are determined as stated in "Attachment A – Out-of-Area Services."

3. Providers Who Don't Have Agreements With The Claims Administrator Or Another Blue Cross Blue Shield Licensee

The Allowed Amount for providers in the Service Area that don't have a contract with the Claims Administrator is the least of the three (3) amounts shown below. The Allowed Amount for providers outside the Service Area that don't have a contract with the Claims Administrator or the local Blue Cross and/or Blue Shield Licensee is also the least of the three (3) amounts shown below.

An amount that is no less than the lowest amount the Plan pays for the same or similar service from a comparable provider that has a contracting agreement with the Claims Administrator

- 125 percent of the amount allowed by Medicare, if available
- The provider's billed charges. Note: Ambulances are always paid based on billed charges.
- If applicable law requires a different Allowed Amount than the least of the three (3) amounts above, this Plan will comply with that law.

b. Dialysis Due To End Stage Renal Disease

1. Providers Who Have Agreements With the Claims Administrator Or Other Blue Cross Blue Shield Licensees

For any given service or supply, the amount these providers have agreed to accept as payment in full pursuant to the applicable agreement between the Claims Administrator and the provider.

2. Providers Who Don't Have Agreements With the Claims Administrator Or Another Blue Cross Blue Shield Licensee

The amount the Plan allows for dialysis during Medicare's waiting period will be no less than 125 percent of the amount allowed by Medicare and no more than 90 percent of billed charges.

The amount the Plan allows for dialysis after Medicare's waiting period is 125 percent of the Medicare-approved amount, even when a Member who is eligible for Medicare does not enroll in Medicare.

c. Emergency Care

As applicable law requires, for specified covered services received from Non-Contracted Providers or Out-of-Network Providers at facilities that have a Contract with the Claims Administrator or the local Blue Cross and/or Blue Shield Licensee, the cost-sharing for these services shall be the same as if the services were provided by an In-Network Provider.

Note: Non-contracted ground ambulances are always paid based on billed charges.

Consistent with applicable laws, Members are not responsible for charges received from Non-Contracted Providers above the Allowed Amount in addition to any deductible, copays or coinsurance that may apply.

d. Air Ambulance

Consistent with the requirements of the Federal No Surprises Act, the cost-sharing for out of network air ambulance services shall be the same as if the services were provided by an In-Network Provider. The cost sharing amount shall be counted towards the in-network deductible, if any, and any in-network out of pocket maximum amount. Cost-sharing shall be based upon the lesser of the qualifying payment amount (as defined under the Federal No Surprises Act) or the billed amount.

Claims Administrator Premera Blue Cross.

Contract Period The period shown on the face page of this Contract. The Contract Period begins at 12:01 a.m. on the starting date shown on the face page and ends at midnight on the ending date shown on the face page.

Effective Date The date this Contract takes effect (the first day of the Contract Period). The Effective Date is shown on the face page of this Contract.

Medically Necessary Those covered services and supplies that a physician, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms, and that are:

- In accordance with generally accepted standards of medical practice;
- Clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for the patient's illness, injury or disease; and
- Not primarily for the convenience of the patient, physician, or other health care provider, and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury or disease.

For these purposes, "generally accepted standards of medical practice" means standards that are based on credible scientific evidence published in peer reviewed medical literature generally recognized by the relevant medical community, physician specialty society recommendations and the views of physicians practicing in relevant clinical areas and any other relevant factors.

Member A Subscriber or dependent who is eligible for coverage as stated in the Plan and who is enrolled as required in the Plan.

In-Network Provider A provider that is in one of the provider networks chosen by the Plan Sponsor for the Plan.

Non-Contracted Provider A provider that does not have a network provider contract with the Claims Administrator or, for out-of-area providers, with the local Blue Cross and/or Blue Shield Licensee.

Out-Of-Network Provider A provider that is not in one of the provider networks chosen by the Plan Sponsor for the Plan.

Non-Grandfathered Health Plan A Plan benefit package that does not meet the requirements to be a grandfathered health plan set forth in the federal Affordable Care Act regulations. If the Plan consists of more than one (1) benefit package, the federal regulations on non-grandfathered plan status apply separately to each benefit package.

PEPM "Per employee per month."

Plan The employee benefit plan established and maintained by the Plan Sponsor that is being administered under this Contract. The Plan may consist of one (1) or more benefit packages.

Plan Sponsor City of Marysville.

Program Manager Certain vendors of Claims Administrator that provide certain of the administrative services. Claims Administrator arranges for the provision of services by Program Managers, as described in Attachments and Appendixes hereto, as well as other services which may include, based on your selections, provider quality performance information, supplemental networks, and outcomes-driven drug utilization review and medical drug rebate programs.

Service Area The area in which the Claims administrator directly operates a provider network. This area is made up of the states of Washington (except Clark County) and Alaska

Subscriber A person who is eligible for coverage under the Plan by virtue of an employee-employer relationship or other relationship between the person and the Plan Sponsor, and who is enrolled as required in the Plan.

2. DUTIES AND RESPONSIBILITIES OF THE PLAN SPONSOR

2.1. Documentation

The Plan Sponsor shall provide the Claims Administrator with a copy of any documents describing the benefit program(s) that the Claims Administrator needs to rely upon in performing its responsibilities under this Contract.

2.2. Plan Sponsor's Fiduciary Authority

The Plan Sponsor shall have final discretionary authority to determine the benefit provisions and to construe and interpret the terms of the Plan.

The Plan Sponsor shall have final discretionary authority to determine eligibility for benefits and the amount to be paid by the Plan.

2.3. Defense of the Plan

Except as stated in subsection 4.3, the Plan Sponsor shall be responsible for defending any legal action brought against the Plan, including a claim for benefits by or on behalf of any individual or entity, including but not limited to any Member or former Member, any fiduciary or other party. This responsibility includes the selection and payment of counsel. The Plan Sponsor shall not settle any legal action or claim without the prior consent of the Claims Administrator if the action or claim could result in the Claims Administrator being liable, including for example, any liability for contribution to or indemnification of the Plan Sponsor or other third party either directly or indirectly.

2.4. Administrative Duties

Unless specifically delegated to the Claims Administrator by this Contract, the Plan Sponsor shall be responsible for the proper administration of the Plan including the following:

- a. The Plan Sponsor shall provide the Claims Administrator a complete and accurate list of all individuals eligible for benefits under the benefit program(s) and to update those lists monthly. The Claims Administrator shall be entitled to rely on the most recent list until it receives documentation of any change thereto.

Retroactive enrollments shall be effective on the most recent of three (3) dates:

- The date the Member's coverage would have been validly in force
- The first day of the fifth full calendar month preceding the month in which the Claims Administrator receives the request for retroactive enrollment.
- If the plan is a high deductible health plan, the first day of the current calendar year

Retroactive terminations of coverage shall be effective on the most recent of two (2) dates:

- The date the Member's coverage would have been terminated, had notification been timely

- The first day of the fifth full calendar month preceding the month in which the Claims Administrator receives the request for retroactive termination.
- b. The Plan Sponsor shall distribute to all Members all appropriate and necessary materials and documents, including but not limited to benefit program booklets, summary plan descriptions, material modifications, enrollment applications and notices required by law or that are necessary for the operation of the Plan.
- c. The Plan Sponsor shall provide the Claims Administrator with any additional information necessary to perform its functions under this Contract as may be requested by the Claims Administrator from time to time.
- d. If the Plan Sponsor writes or revises its benefit booklet, the Claims Administrator must review and approve in advance the draft of the benefit booklet that is printed and distributed to Members.
The Plan Sponsor must also include BlueCard disclosure language approved by the Blue Cross Blue Shield Association in its booklet.
- e. In order to place calls to Members, the Claims Administrator may receive Member phone numbers provided by the Plan Sponsor or by a third party (such as a producer) on the Plan Sponsor's behalf. For the Claims Administrator and its affiliates to contact Members in accordance with telecommunication-related laws and regulations, the Plan Sponsor confirms the following with respect to Member phone numbers that the Plan Sponsor has provided or will provide to the Claims Administrator:
 - The Member provided his or her phone number on his or her Plan application, or otherwise provided or updated his or her phone number with the Plan Sponsor with the expectation that it will be provided to the Claims Administrator in connection with the Member's coverage under the Plan.
 - The Plan Sponsor only obtains phone numbers directly from the Member and not through a lookup service or other third party.
 - The Plan Sponsor retains contact information and will furnish that information to the Claims Administrator upon request in a timely manner.
 - Plan Sponsor does not agree that, nor grant permission for, the following personal data to be used by the Claims Administrator or Claims Administrator's vendors who provide a health plan benefit service for the purpose of sending directed notifications to members regarding programs and services included in their health plan benefits: member name, member address, member email and phone number.
- f. The Plan Sponsor has full ownership of the information, data, and other intellectual property developed or shared by the Plan Sponsor during the course of the contract.

2.5. Taxes, Assessments, And Fees

The Plan Sponsor shall be responsible for all taxes, assessments and fees levied by any local, state or federal authority in connection with the Claims Administrator's duties pursuant to this Contract.

2.6. Compliance With Law

- The Plan Sponsor shall be responsible for the Plan's continuing compliance with all applicable federal, state and local laws and regulations, as currently amended. These include but are not limited to:
 - The Internal Revenue Code of 1986, as amended
 - The Affordable Care Act.
 - The No Surprises Act, enacted as part of the Consolidated Appropriations Act, 2021
 - The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)
 - The Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)
 - Law and regulations governing the treatment and benefits of Members covered by Medicare. These include, but are not limited to, the Medicare Secondary Payer law and regulations, the Medicare Prescription Improvement and Modernization Act of 2004 (MMA), and the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA).

As required by MMSEA, the Plan Sponsor agrees to provide us the following information:

- Employer Tax Identification Number (TIN/EIN);
- Social Security Numbers (SSNs) of all Members (employees and dependents); and
- Medicare Health Insurance Claim Numbers (HICNs) for all Medicare-entitled Members.

To comply with the Medicare Secondary Payer law and regulations, the Plan Sponsor also agrees to notify us promptly if the Plan Sponsor experiences a change in total employee count that would change the order of liability according to federal guidelines.

MMA requires groups that provide prescription drug coverage to Medicare eligible individuals to provide Medicare Part D Creditable Coverage Notices, and report creditable coverage status to the Center for Medicare and Medicaid Services (CMS).

The Plan Sponsor, and not the Claims Administrator, is the "plan administrator" and the "plan sponsor" for purposes of all federal laws that apply to the Plan Sponsor and impose duties or obligations on such entities. The Plan Sponsor shall be responsible for determining whether it is subject to COBRA and, if so, for notifying Members of their COBRA rights both initially and upon the occurrence of a qualifying event, for calculating and collecting premiums for COBRA continuation of coverage and for promptly notifying the Claims Administrator when an individual is no longer eligible for COBRA continuation of coverage. If the Plan Sponsor is subject to ERISA, the Plan Sponsor is responsible to prepare and maintain its ERISA plan document.

- The Plan Sponsor shall defend, indemnify and hold harmless Claims Administrator and its directors, officers, employees, and agents from and against any and all costs, liabilities, damages, claims, losses or expenses (including reasonable attorneys' fees) arising out of or connected to the Claims Administrator's administration of any benefit design authorized by the Plan Sponsor. The Plan Sponsor acknowledges its sole responsibility to test and design benefits compliant with all laws.
- If the Plan Sponsor is a governmental entity that elects to opt out of compliance with certain federal mandates as allowed by federal law, the Plan Sponsor is responsible to file its opt-out with federal regulators for each contract period and to notify Members of the opt-out in accordance with federal law and regulations then in effect. The Plan Sponsor agrees to hold the Claims Administrator and the Network harmless for any and all consequences arising from the Plan Sponsor's failure to file an opt-out as required by law for a given contract period, errors in the opt-out filing, or failure to notify a Member as required by federal law.

2.7. Appeals

If an adverse decision on a Member appeal results from the Plan's internal appeal process, the Plan shall offer the Member a review by an Independent Review Organization (IRO) as described in subsection 3.2.

2.8. Funding

The Plan Sponsor shall be solely liable for all benefits payable to Members under the Plan that are subject to this Contract. The Plan Sponsor agrees to the following:

- Provision Of Funds** The Plan Sponsor shall maintain adequate funds from which the total cost of all claims and fees described herein for each preceding week will be paid to the Claims Administrator by electronic funds transfer (EFT). Funds must be provided within two (2) business days of notification by the Claims Administrator to a person designated by the Plan Sponsor.
- Late Payments** If timely payment for the claims is not received by the Claims Administrator, the Plan Sponsor shall pay the Claims Administrator a daily late charge. This late charge is calculated from the first day following the period of two (2) business days stated above. This late charge is based on the average monthly prime rate posted by Claims Administrator's designated bank during the Contract Period, plus two (2) percent on the amount of the late payments for the number of days late. Late charges are due at the end of the Contract Period or, if earlier, upon termination of the Contract.
- Notices** Notices required by this subsection and subsection 3.4 shall be by secure e-mail unless another method is agreed upon in writing by the Plan Sponsor and the Claims Administrator.

3. DUTIES AND RESPONSIBILITIES OF THE CLAIMS ADMINISTRATOR

3.1. Administrative Duties

The Claims Administrator agrees to perform the following administrative services for the Plan Sponsor. The Claims Administrator shall:

- a. assist in the preparation and printing of the benefit program booklets, identification cards, and other materials necessary for the operation of the Plan; and distribute identification cards to Members.
The Claims Administrator shall be responsible to include approved BlueCard program disclosure language in the booklets it prepares. If the Plan Sponsor prepares its own booklets, the Claims Administrator shall provide approved language to the Plan Sponsor for inclusion in the booklets;
- b. perform reasonable internal audits as stated in section 6 of this Contract;
- c. answer inquiries from the Plan Sponsor, Members, and service providers regarding the terms of the Plan, although final authority for construing the terms of the Plan's eligibility and benefit provisions is the Plan Sponsor's;
- d. prepare and provide the Plan Sponsor with reports of the operations of the Plan in accordance with "Attachment C – Reporting";
- e. coordinate with any stop-loss insurance carrier;
- f. when the plan makes use of one (1) or more of the Claims Administrator's provider networks, maintain a network of healthcare facilities and professionals as applicable to the plan design. Paid claims to such providers will reflect any applicable provider discounts;
- g. perform care facilitation services as identified in "Attachment F – Carecompass360°."
- h. manage the formulary chosen by the Plan Sponsor.
- i. **Pharmacy Benefit Program** For pharmacy benefit claims, Claims Administrator will pay Plan Sponsor a prescription drug rebate payment equal to a specific amount per paid brand-name prescription drug claim. The actual refund will be the specific amount less applicable Washington State B&O taxes. Prescription drug rebates Claims Administrator receives from its pharmacy benefit administrator in connection with Claims Administrator's overall pharmacy benefit utilization may be more or less than the Plan Sponsor's rebate payment. The Plan Sponsor's rebate payment shall be made to the Plan Sponsor on a calendar quarterly basis unless agreed upon otherwise.

The allowable charge for prescription drugs is higher than the price paid to the pharmacy benefit manager for those prescription drugs.

The parties hereby agree that the difference between the allowable charge for prescription drugs and the price paid to the pharmacy benefit manager, and the prescription drug payments received by Claims Administrator from its pharmacy benefit manager, constitutes our property, and not part of the compensation payable to Plan Sponsor under this Contract, and that Claims Administrator is entitled to retain and shall retain such amounts and may apply them to the cost of its operations and the pharmacy benefit.

Medical Benefit Drug Program The medical benefit drug program is separate from the pharmacy program. It includes claims for drugs delivered as part of medical services. For medical benefit drug claims, the Claims Administrator may contract with subcontractors that have rebate contracts with various manufacturers. Rebate subcontractors retain a portion of rebates collected as a rebate administration fee. The Claims Administrator retains a portion of the rebate. The Plan Sponsor's medical benefit drug rebate payment shall be made to the Plan Sponsor on an annual basis if the rebate is \$500 or more, less applicable Washington State B&O Taxes. If less than \$500, the Claims Administrator will retain the medical benefit drug rebate.

Notwithstanding the above as set forth in 3.1.i, if government action, changes in law or regulation, or actions by a pharmaceutical manufacturer result in adverse effects to the availability of rebates or to the

Claims Administrator's expectation of future rebate payments, the Claims Administrator shall have the right to update these terms.

The Claims Administrator, at its sole discretion, reserves the right to delegate some or all of its duties and responsibilities under this Contract to a third party.

- k. Solely as a convenience, Claims Administrator will make available the provider directory of in network healthcare providers as well as certain machine-readable files, and cost sharing information. Claims Administrator will file prescription drug data collection (RxDC) on the Plan Sponsor's behalf as it pertains to the Plan Sponsor's compliance requirements set forth below. Claims Administrator is not responsible for self-funded Plan Sponsor health plan compliance. Plan Sponsor is responsible for its self-funded health plan compliance and may choose to access and use the information provided as a convenience solely at its discretion to address compliance requirements pursuant to the Transparency Coverage rules set forth in 26 CFR 54.9815-2715A1 –2715A3; 29 CFR 2590.715-2715A1 –2715A3; 45 CFR 147.210 – 212; 26 CFR 54.9825-4T-6T and Federal No Surprises Billing Act set forth in 29 CFR 2590.716-1 to 29 CFR 2590.725-4; 45 CFR Part 149, as applicable; 26 CFR 54.9816-1T to 26 CFR 54.9831-1, as applicable. Claims Administrator will make available only the applicable data described above for the services provided to the Plan Sponsor under this contract and only the portion of that applicable data it currently has in its possession.

3.2. Appeals

- a. The Claims Administrator shall review and respond to the initial appeals made by Members of Adverse Benefit Determinations (see section 1) as described in the benefit booklet provided by the Claims Administrator for this Plan.

The Claims Administrator shall also provide a second review of adverse Member appeal decisions made after its initial review. This review will be conducted as described in the benefit booklet provided by the Claims Administrator for this Plan.

- b. If an adverse decision on a Member's appeal results from the Plan's internal appeal process, the Claims Administrator agrees to facilitate a review of the appeal by an Independent Review Organization (IRO) on behalf of the Plan Sponsor. The Claims Administrator will submit all required documentation regarding the appeal to the IRO and work with the IRO as needed to complete its review.

The external appeal process for Non-Grandfathered Plans will be offered and administered in accordance with the requirements of the Affordable Care Act.

The Plan Sponsor is responsible for all costs charged by the IRO to perform its review. If the Plan Sponsor chooses to share that cost with Members to the extent allowed under the Affordable Care Act, the Plan Sponsor is responsible to charge and collect any such fee from a Member.

3.3. Claims Processing

The Claims Administrator shall process all eligible claims incurred after the Effective Date of this Contract which are properly submitted in accordance with the procedures set forth in the Plan Sponsor's benefit booklet.

The Claims Administrator shall make reasonable efforts to determine that a claim is covered under the terms of the Plan as described in the benefit booklet, to apply the coordination of benefits provisions, and prepare and distribute benefit payments to Members and/or service providers. The Claims Administrator shall make reasonable efforts to identify and recover overpayments due to claim processing errors that were within its control, retroactive cancellations, or fraudulent billing practices. "Reasonable" for the purposes of this section shall be determined by the Claims Administrator.

3.4. Funding Support

The Claims Administrator shall follow the steps below to facilitate the Plan Sponsor's funding of its Plan.

- a. Claim payment checks will be issued on the Claims Administrator's check stock. However, as stated in subsection 2.8 above, the responsibility for funding benefits is the Plan Sponsor's and the Claims Administrator is not acting as an insurer.
- b. Each week, the Claims Administrator shall notify the Plan Sponsor of the amount due for the prior week's claims. Notice will be by secure e-mail unless another method is agreed upon in writing by the Claims Administrator and the Plan Sponsor.

3.5. Participation In Class Action Suits

The Plan Sponsor hereby delegates to the Claims Administrator the authority to participate on behalf of the Plan Sponsor, and at the Claims Administrator's sole discretion, in class action lawsuits or settlements regarding any services or supplies covered under the terms of the Plan. Examples of such services or supplies include prescription or specialty drugs or medical devices. Such participation shall be limited to those instances in which the Claims Administrator determines that it will submit a claim in the subject suit on behalf of its insured book of business. The Claims Administrator shall have no obligation to participate on behalf of the Plan Sponsor in any other lawsuit or settlement. The Claims Administrator will have no obligation to file claims on behalf of a Plan Sponsor with which the Claims Administrator does not have a contract at the time the claims for recovery are submitted.

The Plan Sponsor will recover the amount it is due under the terms of the settlement in question based upon the data submitted by the Claims Administrator. Any amounts recovered by the Claims Administrator hereunder shall be net of the Claims Administrator's fee as set forth below as well as fees paid to outside counsel in connection with the lawsuit and/or settlement.

For each class action lawsuit or settlement in which the Claims Administrator participates hereunder on the Plan Sponsor's behalf, the Plan Sponsor shall pay the Claims Administrator a fee representing a proportionate share of a fixed amount intending to compensate the Claims Administrator for its work in connection with pursuing recovery in these cases. The fixed amount is shown in "Attachment D – Fees Of The Claims Administrator." This fixed amount is subject to change on an annual basis with at least 60 days' advance notice to the Plan Sponsor. The amount of the Claims Administrator's fee payable by each Plan Sponsor shall be based on the proportion of the total amount recovered by the Claims Administrator on behalf of the Plan Sponsor compared to the amount recovered by Claims Administrator for all lines of business. The fee will be deducted from the amount of any recovery received on behalf of the Plan Sponsor and will in no event exceed the amount of such recovery.

Payment hereunder shall be made within 60 days of the Claims Administrator's receipt of the settlement funds.

The Claims Administrator shall have no obligation to forward settlement funds to any group hereunder if the amount due to the group is less than \$5.

The Plan Sponsor may elect to decline to participate in the Claims Administrator's recovery process related to class action lawsuits or settlements regarding any services or supplies covered under the Plan by providing the Claims Administrator written notice. Except as set forth below, in the event the Plan Sponsor opts out, the Claims Administrator shall have no further obligation whatsoever to the Plan Sponsor in connection with the recovery process. The Plan Sponsor may request that the Claims Administrator gather data necessary for the Plan Sponsor to submit its own claim. In any such case, the Plan Sponsor shall pay the amount shown in "Attachment D – Fees Of The Claims Administrator" for the data-gathering services. Additionally, the Plan Sponsor shall make any such request in writing a minimum of 30 days in advance of the claim filing deadline.

4. LIMITS OF THE CLAIMS ADMINISTRATOR'S RESPONSIBILITY

It is recognized and understood by the Plan Sponsor that the Claims Administrator is not an insurer and that the Claims Administrator's sole function is to provide claims administration services and the Claims Administrator shall have no liability for the funding of benefits.

The Claims Administrator is empowered to act on behalf of the Plan Sponsor in connection with the Plan only as expressly stated in this Contract or as mutually agreed to in writing by the Claims Administrator and the Plan Sponsor.

This Contract is between the Claims Administrator and the Plan Sponsor and does not create any legal relationship between the Claims Administrator and any Member or any other individual.

The Claims Administrator will not administer any benefit for services that is at risk of violating state or federal law is illegal under state or federal law.

4.1. Recoveries

If, during the course of an audit performed internally by the Claims Administrator as described in subsection 3.1.b. above or by the Plan Sponsor pursuant to section 6 below, any error is discovered, the Claims Administrator shall use reasonable efforts to recover any loss resulting from such error.

4.2. Independent Contractor

The Claims Administrator is an independent contractor with respect to the services being performed pursuant to this Contract and shall not for any purpose be deemed an employee of the Plan Sponsor.

4.3. Limits of Liability

It is recognized by the parties that errors may occur, and it is agreed that the Claims Administrator will not be held liable for such errors unless they resulted from its gross negligence or willful misconduct. The Plan Sponsor agrees to defend, indemnify and hold harmless the Claims Administrator from all claims, damages, liabilities, losses and expenses arising out of the Claims Administrator's performance of administration services under the terms of this Contract, so long as they did not arise out of the Claims Administrator's gross negligence or willful misconduct. In the event that Claims Administrator becomes aware of an inaccurately priced claim, Claims Administrator shall ensure that Plan Sponsor's funding obligation is limited to the accurate price of such claim.

5. FEES OF THE CLAIMS ADMINISTRATOR

5.1. Payment Time Limits

By the first of each month, The Plan Sponsor shall pay the Claims Administrator in accordance with the fee schedule set forth in "Attachment D – Fees Of The Claims Administrator."

5.2. Late Payments

- a. If, for any reason whatsoever, the Plan Sponsor fails to make a timely payment required under this Contract by the thirtieth day of the month in which payment is due, the Claims Administrator may suspend performance of services to the Plan Sponsor, including processing and payment of claims, until such time as the Plan Sponsor makes the required payment, including interest as set forth in c. below.
- b. In the event of late payment, the Claims Administrator may terminate this Contract pursuant to subsection 8.5 below. Acceptance of late payments by the Claims Administrator shall not constitute a waiver of its right to cancel this Contract due to subsequent delinquent or nonpayment of fees.
- c. The Claims Administrator will charge interest to the Plan Sponsor on all payments received after the thirtieth day of the month in which they are due, including amounts paid to reinstate this Contract after termination pursuant to subsection 8.5 below, at the average prime rate posted by Claims Administrator's designated bank during the Contract Period plus two (2) percent on the amount of the late payments for the number of days late. Interest will be in addition to any other amounts payable under this Contract.

5.3. Customization Fees

The Plan Sponsor shall pay the Claims Administrator a "customization fee" when the Plan Sponsor requests either of the following:

- a. A plan benefit configuration that the Claims Administrator has not determined to be standard for the plan type. Customization fees for nonstandard plan benefits assessed at this Contract's Effective Date are listed in "Attachment D – Fees Of The Claims Administrator."
- b. An off-anniversary benefit change, regardless of whether the desired benefit is standard for the plan type. The customization fee for each off-anniversary change shall be \$5,000. Customization fees for off-anniversary changes shall be invoiced separately to the Plan Sponsor.

For purposes of customization fees, "benefits" include eligibility, termination, continuation, and benefit payment provisions, benefit terms, limitations, and exclusions, funding arrangement changes, and any other standard provisions of the Plan. Fees are computed based on current administrative costs to implement and administer the benefit.

Customization fees for custom benefits that take effect on the Effective Date shown on the face page of this Contract are due and payable prior to that Effective Date. Customization fees for off-anniversary benefit changes are due and payable prior to the effective date of the change.

6. AUDIT

Within thirty (30) days of written notice from the Plan Sponsor, the Claims Administrator shall allow an authorized agent of the Plan Sponsor to inspect or audit all records and files maintained by the Claims Administrator which are directly pertinent to the administration of the Plan and which relate to a random, statistically valid number of claims for the current or most recently ended contract period. Such documents shall be made available at the administrative office of the Claims Administrator during normal business hours. The Plan Sponsor may obtain such records electronically by contacting the Claims Administrator directly by telephone or email. The Plan Sponsor shall be liable for any and all fees charged by the auditor. All audits shall be subject to the Claims Administrator's audit policies and procedures then in effect. Audits will be requested no more than once in every 12 consecutive months, unless the parties agree that the additional audit is needed to address a specific issue or is required by law. To the extent that the Plan Sponsor requests data and reports that are beyond the scope of the Claim Administrator's audit policies and procedures, the Plan Sponsor shall reimburse the Claims Administrator for the additional administrative costs incurred in producing such data and reports. Any agent or auditor who has access to the records and files maintained by the Claims Administrator shall agree not to disclose any proprietary or confidential information used in the business of the Claims Administrator.

7. TERM OF CONTRACT

7.1. Contract Period

The term of this Contract shall be the Contract Period shown on the face page of this Contract. If the Plan Sponsor and the Claim Administrator agree to extend the Contract for another contract period by means of an amendment, the term of this Contract shall be the Contract Period shown on the amendment.

Except as stated otherwise in this section and in subsection 7.2 below, the terms and conditions of this Contract and the fee schedule set forth in "Attachment D – Fees Of The Claims Administrator" are established for the Contract Period. Midyear benefit or administrative changes (other than those in 8.2.a.6.) require thirty (30) days advance written notice and the advance approval of the Claims Administrator.

The Claims Administrator reserves the right to amend this Contract at any time if needed to comply with applicable law or regulation and on an annual basis to reflect any necessary updates to Claims Administrator's business practices applicable to this contract.

7.2. Changes to Fees

The Plan Sponsor acknowledges that the fee schedule set forth in "Attachment D – Fees Of The Claims Administrator" and the services provided for in this Contract are based upon the terms of the Plan and the enrollment as they exist on the Effective Date of this Contract.

- a. Any substantial changes, whether required by law or otherwise, in the terms and provisions of the Plan or in enrollment may require that the Claims Administrator incur additional expenses. The parties agree that any substantial change, as determined by the Claims Administrator after consultation with the Plan Sponsor, shall result in the alteration of the fee schedule, even if the alteration is during the Contract Period. The phrase "any substantial change" shall include, but not be limited to:
 1. a fluctuation of ten (10) percent or more in the number of Members as set forth on the census information included in "Attachment B – Census Information" which is herein incorporated by reference and made a part of this Contract;

2. the addition of benefit program(s) or any change in the terms of the Plan's eligibility rules, benefit provisions or record keeping rules that would increase administration costs by more than \$2,000;
 3. any change in claims administrative services, benefits or eligibility required by law;
 4. any change in administrative procedures from those in force at the inception of this Contract that is agreed upon by the parties;
 5. any additional services which the Claims Administrator undertakes to perform at the request of the Plan Sponsor which are not specified in this Contract such as the handling of mailings or preparation of statistical reports and surveys not specified in the Claims Administrator's standard Employer Group Reporting set.
 6. A change in the third-party administrator, if any, used by the Plan Sponsor with respect to the benefits provided under this Contract. The Plan Sponsor will provide the Claims Administrator no less than 120 days' advance written notice of any such change.
- b. The Claims Administrator may also adjust the fees during the Contract Period by giving thirty (30) days advance written notice to the Plan Sponsor or its agent, if the Plan Sponsor agrees with the Claims Administrator that the fees are based in whole or in part upon a mistake that materially impacts such fees.

8. TERMINATION

If this contract is terminated, the Plan Sponsor shall be liable for any payments and services rendered before the effective date of termination.

8.1. Termination With Notice

The Plan Sponsor may terminate this Contract at any time by giving the Claims Administrator thirty (30) days written notice.

8.2. Contract Period Expiration

This Contract will terminate on the last day of the Contract Period or the last day of any extension of the Contract Period granted by the Plan Sponsor.

8.3. Termination Due to Insolvency

Either party may terminate this Contract effective immediately by giving written notice to the other if a party becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether foreign or domestic. A party is insolvent if it has ceased to pay its debts in the ordinary course of business; cannot pay its debts as they become due; or the sum of its debts is greater than the value of its property at a fair valuation.

8.4. Termination Due to Inability to Perform

If loss of services is caused by, or either party is unable to perform any of its obligations under this Contract, or to enjoy any of its benefits because of natural disaster, action or decrees of governmental bodies or communication failure not the fault of the affected party, such loss or inability to perform shall not be deemed a breach. The party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of such notice, the party whose performance has not been so affected may, as its sole remedy, terminate this Contract by written notice to the other party effective immediately. In the event of such termination, the Plan Sponsor shall remain liable to the Claims Administrator for all payments due, together with interest thereon as provided for in subsection 5.2.c. above.

8.5. Termination For Nonpayment

The Claims Administrator may, at its sole discretion, terminate this Contract effective as of a missed payment or payment of funds due date in the event that the Plan Sponsor fails to make a timely payment required under this Contract.

8.6. Plan Sponsor Liability Upon Termination

In the event this Contract is terminated, the Plan Sponsor shall remain liable to the Claims Administrator for all delinquent sums together with interest thereon as provided for in subsection 5.2.c. above.

At the expense of the Plan Sponsor, the Claims Administrator shall make available a record of deductibles and coinsurance levels for each Member and deliver this information to the Plan Sponsor or its authorized agent.

8.7. Claims Runout

The Plan Sponsor continues to be solely liable for claims received by the Claims Administrator after the Contract terminates. For the fifteen (15)-month period following termination of this Contract, the Claims Administrator shall continue to process eligible claims incurred prior to termination, or adjustments to claims incurred prior to termination, that the Claims Administrator receives no more than twelve (12) months after the date of termination at the claims runout processing fee rate set forth in "Attachment D – Fees Of The Claims Administrator."

The runout processing charge will be due in full with the first request for claims reimbursement made during the runout period.

If the Claims Administrator receives claims for Plan benefits more than twelve (12) months after the date this Contract terminates, Claims Administrator shall deny those claims. If the Plan Sponsor wants to negotiate a different arrangement, the Plan Sponsor must contact the Claims Administrator no later than the start of the fourteenth month after the date this Contract terminates.

This "Claims Runout" provision shall survive termination of this Contract.

9. DISCLOSURE

It is recognized and understood by the Plan Sponsor that the Claims Administrator is subject to all laws and regulations applicable to Claims Administrators and health care service contractors.

It is also recognized and understood by the Plan Sponsor that the Claims Administrator is not acting as an insurer and also is not providing stop-loss insurance.

10. OTHER PROVISIONS

10.1. Choice of Law

The validity, interpretation, and performance of this Contract shall be controlled by and construed under the laws of the state of Washington, unless federal law applies. Any and all disputes concerning this Contract shall be resolved in King County Superior Court or federal court as appropriate.

10.2. Proprietary Information

The Claims Administrator reserves the right to, the control of, and the use of the words "Premera Blue Cross" and all symbols, trademarks and service marks existing or hereafter established. The Plan Sponsor shall not use such words, symbols, trademarks or service marks in advertising, promotional materials, materials supplied to Members or otherwise without the Claims Administrator's prior written consent which shall not be unreasonably withheld.

The Claims Administrator's provider reimbursement information is proprietary and confidential to the Claims Administrator and will not be disclosed to the Plan Sponsor unless and until a separate Confidentiality Agreement is executed by the parties. For the purposes of this section, "provider reimbursement information" means data containing, directly or indirectly (a) diagnostic, procedures or other code sets; and (b) allowed amount, paid amount or any other financial information for In-Network and Out-Of-Network hospitals, clinics, physicians, other

health care professionals, pharmacies and any other type of facility. Such data may or may not specifically identify providers. No other provision of this Contract or any other agreement or understanding between the parties shall supersede this provision.

10.3. Parties To The Contract

The Plan Sponsor hereby expressly acknowledges, on behalf of itself and all of its Members, its understanding that this Administrative Service Contract constitutes a Contract solely between the Plan Sponsor and the Claims Administrator, that the Claims Administrator is an independent corporation operating under a license with the Blue Cross and Blue Shield Association, an association of independent Blue Cross and Blue Shield Plans (the "Association") permitting the Claims Administrator to use the Blue Cross Service Mark in the States of Washington and Alaska, and that the Claims Administrator is not contracting as the agent of the Association.

The Plan Sponsor further acknowledges and agrees that it has not entered into this Administrative Service Contract based upon representations by any person other than the Claims Administrator, and that no person, entity or organization other than the Claims Administrator shall be held accountable or liable to the Plan Sponsor for any of the Claims Administrator's obligations to the Plan Sponsor created under this Administrative Service Contract. This provision shall not create any additional obligations whatsoever on the Claims Administrator's part other than those obligations created under other provisions of this Administrative Service Contract.

10.4. Notice

Except for the notice given pursuant to the "Funding" subsection of Section 2, any notice required or permitted to be given by this Contract shall be in writing and shall be deemed delivered three (3) days after deposit in the United States mail, postage fully prepaid, return receipt requested, and addressed to the other party at the address as shown on the face page of this Contract or such other address provided in writing by the parties.

10.5. Entire Agreement

This Contract, including any appendices, amendments or attachments incorporated herein by reference, embodies the entire Contract and understanding of the parties and supersedes all prior oral and written communications between them. Only a writing signed by both parties hereto hereof may modify the terms.

10.6. Assignment

Neither party shall assign this Contract or any of its duties or responsibilities hereunder without the prior written approval of the other.

10.7. Survival

The following provisions shall survive the termination of this Contract:

- a. The funding of claims incurred prior to termination and processed during the runout period described in 8.7 Claims Runout. The funding provisions are described in subsections 2.8 and 3.4, and the payment of runout processing fees is described in subsection 8.7.
- b. The liability, hold harmless and indemnification provisions of subsection 4.3
- c. The Effect on Termination section in the Business Associate Agreement

10.8. Independent Contractors

All health care providers who provide services and supplies to a Member do so as independent contractors. None of the provisions of the plan or this Contract are intended to create, nor shall they be deemed or construed to create, any employment or agency relationship between the Claims Administrator and the provider of service other than that of independent contractors.

10.9. Contract Amendments

This contract shall be modified by Claims Administrator at any time by changes to federal or state law as of the implementation date of the law or regulation. If there is any inconsistency between this contract or any state or federal law, the law shall govern.

11. ATTACHMENTS TO THE ADMINISTRATIVE SERVICE CONTRACT

The following attach to and become part of the body of this Contract and they are herein incorporated by reference.

ATTACHMENT A – OUT-OF-AREA SERVICES

ATTACHMENT B – CENSUS INFORMATION

ATTACHMENT C – REPORTING

ATTACHMENT D – FEES OF THE CLAIMS ADMINISTRATOR

ATTACHMENT E – BUSINESS ASSOCIATE AGREEMENT

ATTACHMENT F – CARECOMPASS360°

ATTACHMENT G – EXTENDED PAYMENT INTEGRITY SERVICES

ATTACHMENT H – PREMIER VALUE-BASED PROVIDER ARRANGEMENTS

ATTACHMENT I – SAVEONSP PROGRAM

ATTACHMENT A – OUT-OF-AREA SERVICES

As a Licensee of the Blue Cross and Blue Shield Association (BCBSA), the Claims Administrator has arrangements with other Blue Cross and/or Blue Shield Licensees ("Host Blues") for Members care outside the Service Area. These arrangements are called "Inter-Plan Arrangements." The Claims Administrator is required by BCBSA to disclose the information below about these Inter-Plan Arrangements to groups with which the Claims Administrator does business. The Plan Sponsor has consented to this disclosure to permit the Claims Administrator to satisfy its contractual obligations to BCBSA. This provision defines or modifies the rights and obligations of the parties under this Contract only for the processing of claims for care outside the Service Area.

The Inter-Plan Arrangements follow rules and procedures set by BCBSA. The Claims Administrator remains responsible to the Plan Sponsor for fulfilling its obligations under this Contract.

A Member's receiving services through these Inter-Plan Arrangements does not change covered benefits, benefit levels, or any eligibility requirements of the Plan.

The BlueCard[®] Program is the Inter-Plan Arrangement that applies to most claims from Host Blues' In-Network Providers. The Host Blue is responsible for contracting and handling all interactions with its In-Network Providers. Other Inter-Plan Arrangements apply to providers that are not in the Host Blues' networks (Non-Contracted Providers). This Attachment explains how the Plan pays both types of providers.

Note: The Claims Administrator processes claims for the Prescription Drugs benefit directly, not through an Inter-Plan Arrangement.

BlueCard Program

Except for copays, the Claims Administrator will base the amount Members must pay for claims from Host Blues' In-Network Providers on the lower of the provider's billed charge for the covered services or the Allowed Amount that the Host Blue made available to the Claims Administrator.

Most often, the Plan Sponsor's liability for those claims is calculated based on the same amount on which the Member's liability is calculated. However, sometimes the Host Blue's Allowed Amount may be greater than the billed charges if the Host Blue has negotiated with an In-Network Provider an exclusive allowance (such as a per-case or per-day amount) for specific services. This excess amount may be needed to secure (a) the provider's participation in the Host Blue's network and/or (b) the overall discount negotiated by the Host Blue. Because the Member never has to pay more than the billed charge, the Plan Sponsor may be liable for the amount above the provider's billed charge even when the Member's deductible, if any, has not been satisfied.

Host Blues determine Allowed Amounts for covered services, which are reflected in the terms of their In-Network Provider contracts. The Allowed Amount can be one of the following:

- An actual price. An actual price is a negotiated amount passed to the Claims Administrator without any other increases or decreases.
- An estimated price. An estimated price is a negotiated price that is reduced or increased to take into account certain payments negotiated with the provider and other claim- and non-claim-related transactions. Such transactions may include, but are not limited to, anti-fraud and abuse recoveries, provider refunds not applied on a claim-specific basis, retrospective settlements, and performance-related bonuses or incentives.
- An average price. An average price is a percentage of billed charges for the covered services representing the aggregate payments that the Host Blue negotiated with all of its In-Network Providers or its In-Network Providers in the same or similar class. It may also include the same types of claim- and non-claim-related transactions as an estimated price.

The use of estimated or average pricing may result in a difference between the amount the Plan Sponsor pays on a specific claim and the actual amount the Host Blue pays to the provider. However, the BlueCard Program requires that the Host Blue's Allowed Amount for a claim is final for that claim. No future estimated or average price adjustment will change the pricing of past claims.

Any positive or negative differences in estimated or average pricing on a claim are accounted for through variance accounts maintained by the Host Blue and are incorporated into future claim prices. As a result, the amounts to be charged to the Plan Sponsor will be adjusted in a following year, as necessary, to account for over- or underestimation of past years' prices. The Host Blue will not receive compensation from how the estimated or average price methods, described above, are calculated. Because all amounts paid are final, neither variance account funds held to be paid in the following year, nor the funds expected to be received in the following year, are due to or from the Plan Sponsor. If this Contract terminates, the Plan Sponsor will not receive a refund or charge from the variance account.

Variance account balances are small amounts compared to overall claims amounts and will be drawn down over time. Some Host Blues may retain interest earned, if any, on funds held in variance accounts.

Clark County Providers Services in Clark County, Washington are processed through BlueCard. However, some providers in Clark County do have contracts with the Claims Administrator. These providers will submit claims directly to the Claims Administrator and benefits will be based on the Claims Administrator's Allowed Amount for the covered service or supply.

Value-Based Programs Members might receive covered services from providers that participate in a Host Blue's value-based program (VBP). Value-based programs focus on meeting standards for treatment outcomes, cost and quality, and coordinating care when the Member is seeing multiple providers. Some of these programs are similar to those the Claims Administrator has in Washington. Types of value-based programs are accountable care organizations, global payment/total cost of care arrangements, patient-centered medical homes and shared savings arrangements.

The Host Blue may pay VBP providers for meeting standards for treatment outcomes, cost and quality, and coordinating care over a period of time called a measurement period. The Claims Administrator then passes these payments through to the Plan Sponsor. Sometimes, VBP payments are made before the end of the measurement period.

The Host Blue may bill VBP payments for Members in one of two ways:

- **In the Allowed Amount** Host Blues may adjust the Allowed Amount for VBP provider claims to include VBP payments. The actual dollar amount or a small percentage increase may be included.

If the VBP pays a fee to the provider for coordinating the Member's care with other providers, the Host Blues may also bill these fees with claims. They will use a separate procedure code for care coordination fees.

Members will have to pay a share of VBP payments when Host Blues include VBP charges in claims and a deductible or coinsurance applies to the claim. Members will not be billed for any VBP care coordination fees.

- **Billed Separately** Instead of adjusting claims, some Host Blues bill VBP payments as a "per Member per month" (PMPM) charge for each Member who participates in the Value-based Program. The Claims Administrator passes these PMPM amounts on to the Plan Sponsor.

Some Host Blues' claims adjustments or PMPM amounts used for VBP payments may be estimates. As a result, these Host Blues hold part of the amounts paid by the Plan Sponsor and Member in a variance account. The Host Blues will use these funds to adjust future VBP payments as explained under "BlueCard Program" above.

Taxes, Surcharges And Fees

In some cases, a law or regulation may require that a surcharge, tax, or other fee be applied to claims under this Plan. When this occurs, the Claims Administrator will disclose that surcharge, tax or other fee to the Plan Sponsor as part of its liability.

Non-Contracted Providers

When covered services are provided outside the Claims Administrator's Service Area by Non-Contracted providers, the Allowed Amount will generally be based on either the Claims Administrator's Allowed Amount for these providers or the pricing requirements under applicable law. Members are responsible for the difference between the amount that the Non-Contracted Provider bills and this Plan's payment for the covered services. Please see the definition of "Allowed Amount" in Section 1 in this Contract for details on Allowed Amounts.

Return of Overpayments

Recoveries of overpayments can arise in several ways. Examples are anti-fraud and abuse recoveries, provider/hospital bill audits, credit balance audits, utilization review refunds, and unsolicited refunds. Recovery amounts will generally be applied on either a claim-by-claim or prospective basis. In some cases, the Host Blue will engage a third party to assist in identification or collection of recovery amounts. The fees of such a third party may be charged to the Plan Sponsor separately. The fee is usually a percentage of the amount recovered.

Unless otherwise agreed to by the Host Blue, the Claims Administrator may request adjustments from the Host Blue for full refunds from providers due to the retroactive cancellation of Members, but never more than one year after the date of the Inter-Plan financial settlement process for the original claim. In some cases, recovery of claim payments associated with retroactive cancellations may not be possible if, as an example, the recovery conflicts with the Host Blue's state law or its provider contracts or would jeopardize its relationship with its providers.

Blue Cross Blue Shield Global® Core

If Members are outside the United States, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands (the "BlueCard service area"), they may be able to take advantage of Blue Cross Blue Shield Global Core. Blue Cross Blue Shield Global Core is unlike the BlueCard Program available in the BlueCard service area in certain ways. For instance, although Blue Cross Blue Shield Global Core helps Members access a provider network, they will typically have to pay the provider and submit the claims themselves to get reimbursement for covered services. However, if Members need hospital inpatient care, the Service Center can often direct them to hospitals that will not require them to pay in full at the time of service. These hospitals will also submit the Member's claims to Blue Cross Blue Shield Global Core.

Fees and Compensation

In-Network Providers The Plan Sponsor understands and agrees to reimburse the Claims Administrator for certain fees and compensation which the Claims Administrator is obligated under applicable Inter-Plan Programs requirements to pay to the Host Blues, to BCBSA, and/or to Inter-Plan Programs vendors, as described below. The fees may be revised in accordance with Inter-Plan Programs standard procedures, which do not provide for prior approval by any plan sponsor. Such revisions typically are made on January 1, but may occur at any time. Revisions do not necessarily coincide with the Plan Sponsor's benefit period under this Contract.

Only the "access fee" can be charged separately each time a claim is processed. The access fee is charged by the Host Blue to the Claims Administrator for making its applicable provider network available to Members. The access fee will only apply to In-Network Providers' claims. If such a fee is charged, it will be a percentage of the discount/differential the Claims Administrator receives from the Host Blue. The access fee will not exceed \$2,000 for any claim.

All other Inter-Plan Programs-related fees are covered by the Claims Administrator's general administration fee. See "Attachment D – Fees of the Claims Administrator."

Non-Contracted Providers All fees related to Non-Contracted Provider claims are covered by the Claims Administrator's general administration fee.

ATTACHMENT B – CENSUS INFORMATION

Administration Fees, effective January 1, 2024, are based on the following:

Number of Active and Retired Members:	718	
	Employee	Dependents
Medical	285	433

Number of COBRA Members:	11	
	Employee	Dependents
Medical	10	1

Other Carriers Offered: **None**

ATTACHMENT C – REPORTING

A standard package of reports covering the Contract Period will be provided to the Plan Sponsor within the fees set forth in "Attachment D – Fees Of The Claims Administrator." The reports will cover:

- Funding revenue
- Paid claims
- Census data
- Claims summaries by:
 - Provider type
 - Service type
 - Coverage type

Please note that reports, format, and content may be modified from time to time as needed.

If the Plan Sponsor requests a report that includes information not provided in our standard package of reports or a custom format for standard data, we reserve the right to charge additional fees as needed for that report.

ATTACHMENT D – FEES OF THE CLAIMS ADMINISTRATOR

**ATTACHMENT D
to the Administrative Service Contract
between**

**PREMERA BLUE CROSS
and
City of Marysville
Group Number: 4018895
Effective: 1/1/2024 through 12/31/2024**

Pursuant to the Administrative Service Contract, the Plan Sponsor shall pay the Claims Administrator the fees, as set forth below, for administrative services.

Administration Fees:

\$58.58 per employee per month

Administration Fee Breakdown:

Administration Fee (Medical/Rx)	\$57.81
Enhanced Controlled Substance Utilization	\$0.12
Telemedicine - General Medical and Mental Health (Virtual Care Only)	\$0.65
Total	<u>\$58.58</u>

Claims Runout Processing Fee:

The charge for processing runout claims is an amount equal to the active administration fee at the time of termination, times the average number of subscribers for the 3-month period preceding the termination date, times two.

BlueCard Fee Amount:

BlueCard Fees are tracked and billed monthly in addition to claims expense.

Value-Based Program Payments

Provider groups enter into agreements with Claims Administrator or other Blue Cross and/or Blue Shield Licensees (Host Blues) for value-based programs. These programs offer payment and care delivery models that support more coordinated, efficient and quality-driven healthcare aimed at encouraging coordination and optimizing services to control cost. Such programs include but are not limited to the following: the BCBSA Total Care program, shared savings arrangements like Global Outcomes Contracts, accountable care organizations, patient-centered medical homes, global payment/total cost of care arrangements, outcomes-based payment arrangements, provider enablement arrangements, and coordinated care model arrangements.

Claims Administrator and the Host Blues may pay value-based program providers for meeting the programs' standards for treatment outcomes, cost efficiency and quality. Claims Administrator and the Host Blues plans may also pay value-based program providers for provider enablement activities to facilitate patient care coordination and clinical support activities. Arrangements with these providers and payments related to these programs require investments in health information technology including but not limited to workflow automation, clinical and eligibility data exchanges, referral, medication reconciliation and care transitional support to continue to improve cost and quality outcomes for members.

The Plan Sponsor shall pay the Claims Administrator a per-member-per month (PMPM) amount established for each value-based program provider's attributed or assigned members. The PMPM amount will be multiplied by the number of the Plan Sponsor's Members that are attributed or assigned to each provider group. The PMPM amounts differ between the provider groups and may change during the Contract Period. All PMPM amounts are paid to the value-based program provider per the arrangement between Claims Administrator and provider and the Claims Administrator receives no compensation or mark-up associated with the PMPM payment. In the case of pay for performance programs, the PMPM amount is tied to specific outcomes achieved by the provider. In the case of care coordination, the PMPM amount is tied to productivity or development/maintenance activities completed in support of patient care coordination and clinical support activities. Detailed reporting including but not limited to program PMPM charges and available settlement or productivity reporting will be provided to Plan Sponsor within or as a supplement to the Plan Sponsor billing statement. Additional information is available upon request, and a charge may apply.

Fee For Class Action Recoveries

The Plan Sponsor shall pay the Claims Administrator a fee for its work in pursuing class action recoveries on behalf of the Plan Sponsor as described in Subsection 3.5. The fee shall be a proportionate share of \$50,000, based on the proportion of the amount recovered on behalf of the Plan Sponsor compared to the total amount recovered by the Claims Administrator for all lines of business.

Federal No Surprises Act Independent Dispute Resolution (IDR) Process

The Plan Sponsor will reimburse the Claims Administrator the following fees and amounts expended by the Claims Administrator or the Blue Cross Blue Shield Association licensee that are associated with each Independent Dispute Resolution as defined under federal law:

Fee	Amount
Arbitration Fee, per arbitration For representation of the Plan in arbitration proceedings initiated by a provider.	\$2,500
Federal IDR Process Fee, per arbitration. Administrative fee due from each party participating in the Federal IDR process. The fee is set by the Federal Government and subject to adjustment	Variable
Certified IDR Entity Fee, per arbitration The non-prevailing party in arbitration is responsible for the certified IDR entity fee. The Certified IDR Entity Fee will vary within a range for single case or batched determinations. The fee ranges will be adjusted annually by the Federal Government.	Variable

<p>Outside Legal Counsel Fee, per arbitration All outside counsel fees will be passed through to the Plan Sponsor. Should a provider submit arbitration claims aggregating claims from more than one client (fully insured or self-funded), the outside counsel fees will be pro-rated based upon the number of claims from the Plan as a percentage of the total number.</p>	<p>Variable</p>
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SaveOnSP Program

SaveOnSP maximizes plan savings for select non-essential health benefit specialty drugs listed at www.premera.com/saveonsp through application of drug manufacturer coupons and covers the cost-share for participating Members. To participate, Members must contact SaveOnSP at 1-800-683-1074 to enroll before filling applicable prescriptions. Costs for the SaveOnSP program are calculated as the (i) required Member cost-share of applicable coupons; (ii) Member fills in excess of manufacturer coupon funding; (iii) amounts due if member is ineligible for manufacturer program assistance, and (iv) 25% of reported plan savings, which are invoiced monthly in the Claims invoice. Amounts in (i), (ii) and (iii) will not have to be subject to reported plan savings. In addition to and notwithstanding any provisions to the contrary between Plan Sponsor and Claims Administrator, Plan Sponsor agrees to the terms and conditions set forth in ATTACHMENT I of this Contract.

CareCompass360°

See "Attachment F – Carecompass360°" for an overview of services provided. Services are included in the Claims Administrator's Administration Fee except where stated below.

<p>Personal Health Support (See Appendix 2)</p>	<p>Not included in Administration Fee. \$300 per actively engaged Member per month of active engagement.</p>	
<p>BestBeginnings Maternity (See Appendix 3)</p>	<p>Engagement fee:</p>	<p>\$50 one-time fee per Member when the Member registers for the program and downloads the mobile application</p>
	<p>High Risk Maternity Case Management</p>	<p>\$350 additional one-time fee for Members engaged in high-risk case management</p>
<p>Neonatal Intensive Care Risk Assessment & Case Management (See Appendix 4)</p>	<p>Fee waived</p>	

Extended Payment Integrity Services:

Claims Administrator will perform the services listed below on a pay-for-performance, contingent fee ("Contingent Fee") basis, which shall be calculated as a percentage of the gross amount recovered or saved with respect to any particular claim. See "Attachment G – Extended Payment Integrity Services" for an overview of services provided.

<p>Payment Integrity Category</p>	<p>Contingent Fee</p>
<p>Coordination of Benefits</p>	<p>35 percent</p>
<p>Subrogation</p>	<p>35 percent unless Claims Administrator, in its sole option or discretion, engages outside counsel, in which case the Contingent Fee amount shall be 35 percent, whether or not the case involves litigation or other dispute resolution process.</p>

	<p>35 percent if, after Claims Administrator has worked a subrogation case, the Plan Sponsor takes over responsibility for the case and settles directly.</p> <p>In all cases, Plan Sponsor is also responsible for payment of any court costs, such as filing fees, witness fees or court reporter fees.</p>
Provider Billing Errors	35 percent
Credit Balance	35 percent
Hospital Billing and Chart Review	35 percent
Advanced Claim Editing	35 percent

ATTACHMENT E – BUSINESS ASSOCIATE AGREEMENT

The Plan Sponsor should keep its signed business associate agreement and any signed amendments behind this page.

ATTACHMENT F – CARECOMPASS360°

Claims Administrator agrees to make available to the Plan Sponsor certain components of the CareCompass360° program, which are more particularly described in the appendices attached hereto and incorporated herein. Claims Administrator, in its sole and absolute discretion, may upgrade, change Program Managers or otherwise modify these services. Fees for these services are shown in "Attachment D – Fees Of The Claims Administrator."

General Provisions

- The parties understand, acknowledge and agree that the services provided to the Plan Sponsor hereunder are designed only for availability to the population of Plan Sponsor Members eligible for such services and not for application to each and every Member.
- **Severability.** In the event that any provision hereof is found invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Attachment shall remain valid and enforceable according to its terms.

Appendix 1 Care Facilitation Services

Claims Administrator agrees to provide the following care facilitation services.

Service	Description
Care Management	
Clinical review	Prospective and retrospective review for medical necessity, appropriate application of benefits. Independent medical review and independent clinical management which may include advanced imaging (as well as Member shopping tools), radiation oncology therapy, sleep studies and genetic testing are administered by the Claims Administrator's designated Program Manager(s).
Quality Programs	Includes provision of evidence-based clinical practice and preventive care guidelines to Members and providers, chart tools, and quality of care program activities.
NurseLine	Round-the-clock access for Members to registered nurses to answer questions about their health care administered by the Claims Administrator's designated Program Manager.
Pharmacy	
Prescription drug formulary promotion	Development of formulary and access to providers and Members on-line
Physician-based pharmacy management	Physician education on cost-effective prescribing
Enhanced Controlled Substances Utilization Program (Opioid Management)	Our program, administered by the Claims Administrator's designated Program Manager, identifies and investigates Members who show signs of drug misuse or addiction. When warranted, these Members will only be able to get opioid prescriptions from a particular pharmacy and may also be restricted to one prescriber.
ePocrates	Software to provide physicians with up-to-date drug and plan formulary information.
Point-of-sale Pharmacy	Follow-up with Members and physicians to minimize inappropriate or excessive drug therapies identified when drugs are dispensed.
Virtual Care	The Claims Administrator has contracted with one or more vendors (Program Managers) that uses interactive audio and video technology or using store and forward technology in real-time communication between the Member at the originating site and the provider for diagnoses, consultation, or treatment. Services must meet the following requirements: <ul style="list-style-type: none"> • Covered service under this Plan

	<ul style="list-style-type: none">• Originating site: hospital, rural health clinic, federally qualified health center, physician's or other health care provider office, community mental health center, skilled nursing facility, home, or renal dialysis center, except an independent renal dialysis center• If the service is provided through store and forward technology, there must be an associated office visit between the Member and the referring provider.• Is Medically Necessary
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Appendix 2

Personal Health Support Services

Services of the Personal Health Support program may include:

- Telephonic personal health support, including a clinician designated as the participant's single point of contact for personal health support.
- Engagement team triage
- Periodic reporting on program enrollment and activities

Eligible Health Conditions

Members eligible for services include those who are classified by Claims Administrator, in its sole discretion, using its own methodology or criteria, as high-risk and/or have two (2) or more of the chronic conditions designated by Claims Administrator for the program. Claims Administrator may change the methodology for determining eligibility or terms of or criteria for eligibility, at its sole discretion, from time to time.

Active Engagement

The separate monthly program fee is charged only for Members who are actively engaged in personal health support services during the month. "Active engagement" means that a Member or their authorized designee (such as the parent of a minor child or an individual with power of attorney) has at least one (1) two-way conversation with their personal health support clinician in which health goals are discussed. The initial outreach contact to the Member does not count. No charges are made for a month in which there is no active engagement.

Appendix 3

BestBeginnings Maternity Program

The BestBeginnings Maternity program offers education and support services to pregnant Members and case management for pregnant Members identified as high risk. Member participation is voluntary. The program helps educate Members about normal symptoms of pregnancy, as well as risks and problems, including warning signs.

BestBeginnings Program Description

The BestBeginnings program has two components:

- A mobile application, administered by the Claims Administrator's designated Program Manager, for the Member's smartphone or tablet. Members can download this mobile application from the Internet after they register for the BestBeginnings program. There is no charge to the Member. The application covers important health issues in pregnancy. It provides surveys to help identify high-risk pregnancies and post-partum depression. It also offers information, tools, milestones, alerts on pregnancy-related issues, and reminders. Content is updated quarterly as needed.
- The Claims Administrator will provide outreach to Members identified as having the potential for a high risk pregnancy. These Members can click in the mobile application to call one of the Claims Administrator's maternity specialists. These specialists are the Claims Administrator's personal health support clinicians who have specific maternity training. Maternity specialists are available from 6:00 a.m. to 8:00 p.m. on Monday through Friday and 9:00 a.m. to 1:00 p.m. on Saturday, Pacific time.

Appendix 4

Neonatal Intensive Care Risk Assessment and Case Management

The Neonatal Intensive Care Unit (NICU) Program provides case management for babies admitted to the NICU. The program is administered by the Claims Administrator's designated program manager (the "Program Manager"). The Claims Administrator and/or the hospital refers Members who are admitted to the NICU or a specialty care nursery to the Program Manager. The Program Manager then contacts the parents to get consent for the newborn Member to participate in the NICU Program. Member participation is voluntary.

Services include:

- Coordination of care for newborns throughout their stays in the NICU
- Assistance with management of the baby's care from discharge to the baby's transition home
- Comprehensive booklet that educates parents about the NICU and the needs of the child in the NICU
- Measures health outcomes
- Recommends appropriate levels of care to the Claims Administrator

ATTACHMENT G – EXTENDED PAYMENT INTEGRITY SERVICES

Claims Administrator, through its designated Program Manager shall provide a set of Extended Payment Integrity Services to the Plan Sponsor as described below. Claims Administrator will perform these services on a pay-for-performance, contingent fee ("Contingent Fee") basis, which shall be calculated as a percentage of the gross amount recovered or saved with respect to any particular claim. Contingent Fees are shown in "Attachment D – Fees Of The Claims Administrator."

Payment Integrity Category	Explanation of Services
Coordination of Benefits	<p>Claims Administrator's investigators and auditors will work to identify and pursue overpayments due to Member's missing or inaccurate COB information. Claims Administrator utilizes questionnaires and interviews with providers, employers and Members to determine if Plan Sponsor's Plan is primary or secondary.</p>
Subrogation	<p>Claims Administrator's investigators, auditors and attorneys identify and pursue overpayments due to Subrogation opportunities. Claims Administrator's research to obtain accurate subrogation information and determine group's subrogation rights include questionnaires and interviews with providers, employers and Members. As Claims Administrator deems necessary, Claims Administrator manages attorney and Member notification, coordinates case documentation, coordinates with potentially responsible parties and provides representation for hearings.</p> <p>Claims Administrator will notify Plan Sponsor in the event that Claims Administrator recommends that the Plan Sponsor file suit. Plan Sponsor retains the right to authorize or deny any legal action.</p> <p>Claims Administrator will not initiate legal action to enforce the plan's subrogation provision without prior approval from the Plan Sponsor.</p> <p>If Plan Sponsor brings any legal action on its own, Plan Sponsor will be solely responsible for the case, and (1) The Claims Administrator will cooperate with the Plan Sponsor; (2) Any court costs and attorneys' fees incurred in pursuing such subrogation claims shall be the responsibility of the Plan Sponsor; and (3) If Claims Administrator had already opened a subrogation case, Plan Sponsor shall pay Claims Administrator its subrogation fee set forth in "Attachment D – Fees Of The Claims Administrator." (If Claims Administrator had not already opened a subrogation case, no fees shall be due the Claims Administrator.)</p>
Provider Billing Errors	<p>Claims Administrator's post-payment editing programs and investigators and auditors perform additional screens and tests where billing information is inconsistent with age/services rendered</p>

Payment Integrity Category	Explanation of Services
	or where there appears to be up-coding or unbundling of services. A recovery process is then employed to request and recover verified overpayments.
Credit Balance	This service requires an on-site review of the provider's financial records and discussions with their staff. Credit balances are verified as owed to Plan Sponsor and the source of the credit is determined. The credit is reviewed with the provider and approved for payment back to Claims Administrator or the Plan Sponsor.
Hospital Billing and Chart Review	<p>This service requires an on-site review of the Member's medical charts and interviews with provider staff by registered nurses. The Program Manager ensures that:</p> <ul style="list-style-type: none"> • Service is consistent with diagnosis and billing is consistent with services. • There has been no unbundling of services, diagnosis up-coding or billing maximization. • Services rendered were prescribed by the physician and the doctor's notes were signed. • Standardized billing and payment policies were used.
Advanced Claim Editing	<p>This service uses software or certified coders to analyze medical claims prior to payment to determine appropriateness of billed services on a given claim and how they relate to other data on that claim, or on any historical claims. This includes:</p> <ul style="list-style-type: none"> • Comparing billed service codes against number of units. • Comparing billed service codes against diagnosis codes. • Comparing length of stay with services provided. • Leveraging claims history to validate reasonableness of the services provided. • Leveraging industry trends and billing practices to identify issues. • Review of medical records to support services rendered.

ATTACHMENT H – PREMIERA VALUE-BASED PROVIDER ARRANGEMENTS

Value-Based Program Payments

Provider groups enter into agreements with Claims Administrator or other Blue Cross and/or Blue Shield Licensees (Host Blues) for value-based programs. These programs offer payment and care delivery models that support more coordinated, efficient and quality-driven healthcare aimed at encouraging coordination and optimizing services to control cost. Such programs include but are not limited to the following: the BCBSA Total Care program, shared savings arrangements like Global Outcomes Contracts, accountable care organizations, patient-centered medical homes, global payment/total cost of care arrangements, outcomes-based payment arrangements, provider enablement arrangements, and coordinated care model arrangements.

Claims Administrator and the Host Blues may pay value-based program providers for meeting the programs' standards for treatment outcomes, cost efficiency and quality. Claims Administrator and the Host Blues plans may also pay value-based program providers for provider enablement activities to facilitate patient care coordination and clinical support activities. Arrangements with these providers and payments related to these programs require investments in health information technology including but not limited to workflow automation, clinical and eligibility data exchanges, referral, medication reconciliation and care transitional support to continue to improve cost and quality outcomes for members.

The Plan Sponsor shall pay the Claims Administrator a per-member-per month (PMPM) amount established for each value-based program provider's attributed or assigned members. The PMPM amount will be multiplied by the number of the Plan Sponsor's Members that are attributed or assigned to each provider group. The PMPM amounts differ between the provider groups and may change during the Contract Period. All PMPM amounts are paid to the value-based program provider per the arrangement between Claims Administrator and provider and the Claims Administrator receives no compensation or mark-up associated with the PMPM payment. In the case of pay for performance programs, the PMPM amount is tied to specific outcomes achieved by the provider. In the case of care coordination, the PMPM amount is tied to productivity or development/maintenance activities completed in support of patient care coordination and clinical support activities. Detailed reporting including but not limited to program PMPM charges and available settlement or productivity reporting will be provided to Plan Sponsor within or as a supplement to the Plan Sponsor billing statement. Additional information is available upon request, and a charge may apply.

ATTACHMENT I – SAVEONSP PROGRAM

Plan Sponsor has requested the inclusion of the SaveOnSP Program, and Claims administrator will make the SaveOnSP Program available to Plan Sponsor per their request. SaveOnSP maximizes plan savings for select non-essential health benefit specialty drugs listed at <http://www.premiera.com/saveonsp> through application of drug manufacturer coupons and covers the cost-share for participating Members. To participate, Members must contact SaveOnSP at 1-800-683-1074 to enroll before filling applicable prescriptions. Costs for the SaveOnSP program are calculated as set forth in ATTACHMENT D – FEES OF THE PLAN SPONSOR.

Plan Sponsor agrees it is not required to utilize SaveOnSP with respect to its Plan(s) and that any decision to utilize SaveOnSP is solely at its discretion. Plan Sponsor further agrees that although Claims Administrator is making SaveOnSP available to Plan Sponsor upon request, any actions Claims Administrator takes with respect to SaveOnSP by reason of Plan Sponsor's decision to utilize SaveOnSP are at the direction of Plan Sponsor and are limited to necessary claim administration activities.

In addition to, and notwithstanding any provision to the contrary between Plan Sponsor and Claim Administrator, Plan Sponsor agrees that Claim Administrator is not liable for any loss resulting from Plan Sponsor's use of SaveOnSP. Accordingly, the Plan Sponsor agrees to indemnify and hold harmless Claims Administrator, its directors, officers, employees, and agents (the "Indemnified Parties") from and against all amounts, including without limitation, taxes, expenses (including reasonable attorneys' fees), liabilities, claims, damages, judgements, settlement amounts, or other charges or costs incurred by or assessed against any of the Indemnified Parties as a direct or indirect result of the Plan Sponsor's use of SaveOnSP.



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: Public Works Director Jeff Laycock, Public Works

ITEM TYPE: Ordinance

AGENDA SECTION: **New Business**

SUBJECT: An **Ordinance** of the City Council of the City of Marysville, Washington, Authorizing the City Engineer to Accept Easements for Utility Purposes

SUGGESTED ACTION: Recommended Motion: I move to adopt Ordinance No. _____.

SUMMARY: This Ordinance would authorize the City Engineer to accept easements for water, sewer and stormwater utility purposes. Utility easements as part of a plat or binding site plan are administratively approved as part of that process. Utility easements that are not part of a plat or binding site plan currently requires Council approval. These types of utility easements are often required over developing property as a condition of development. Granting authority to the City Engineer to administratively approve the grant of utility easements will enhance customer service while maintaining the integrity of the City's utility.

ATTACHMENTS:
[Ordinance - Utility Easements.pdf](#)

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, AUTHORIZING THE CITY ENGINEER TO ACCEPT
EASEMENTS FOR UTILITY PURPOSES.**

WHEREAS, persons developing property are frequently required to grant utility easements over their property as a condition of development; and

WHEREAS, the city engineer is best situated to determine if the size, location, and extent of a utility easement meets the needs of the city; and

WHEREAS, when such easements are part of a plat or binding site plan, they are administratively approved as part of that process; and

WHEREAS, accepting the grant of an easement that is not part of a plat or binding site plan currently requires council approval; and

WHEREAS, granting authority to the city engineer to administratively approve the grant of utility easements will enhance customer service while maintaining the integrity of the city's utility systems.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. A new section, 14.01.090, is added to the municipal code as set forth in Exhibit A.

SECTION 2. 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 3. 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 4. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2024.

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 (5 days after publication): _____

EXHIBIT A

14.01.090 City engineer authorized to accept easements for utility purposes.

The city engineer is authorized to accept the grant of easements for utility purposes. Any grant of easement must be in a form approved by the city attorney.



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: Jennifer Ferrer-Santa Ines, Finance

ITEM TYPE: Ordinance

AGENDA SECTION: **New Business**

SUBJECT: An **Ordinance** creating an Interfund Loan Program and enacting Chapter 3.06 as a new Chapter.

SUGGESTED ACTION: Recommended Motion: I move to adopt Ordinance No. _____.

SUMMARY: The needs of the City are such that normal operations may require temporary loans between various funds of the City to maintain positive cash balances. Approval of this Ordinance will provide an orderly process for such loans authorizing the Finance Director on an as needed basis to keep the different funds of the City solvent, which will be subject to regular reporting to the City Council or Finance Committee.

ATTACHMENTS:
[Memo-Establishment of a new section for Interfund Loan Program.docx](#)
[Ordinance - Interfund Loans.pdf](#)



MARYSVILLE
FINANCE

TO: Mayor and City Council
FROM: Jennifer Ferrer-Santa Ines, Finance Director
DATE: April 1, 2024
RE: Establishing Section 3.XX for an Interfund Loans Program

This Ordinance authorizes the Finance Director to administer interfund loans as appropriate to maintain positive cash balances in the City's various funds. Revenue collections fluctuate throughout the year. Property tax, for example, are typically received in larger increments during April and October.

The City is awarded grant funds for various capital projects or expenditures, however, most grant-related expenditures require the City to first incur the expense and the City requests for reimbursement afterwards.

An interfund loan program would allow the Finance Director to manage the loan process and repayment to the lending fund to meet the revenue needs and obligations of the City. The term of repayment will be set based on each situation, and may be short-term or longer-term, but no more than three years. The term of repayment will utilize SOFR, the Secured Overnight Financing Rate, published daily by the Federal Reserve Bank of New York, which replaced Libor (London Interbank offered Rate) effective January 2022.

(360) 363-8000

Civic Center
501 Delta Ave
Marysville, WA 98270

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, AUTHORIZING INTERFUND LOANS.**

WHEREAS, an interfund loan program would allow the finance director to better manage the city's funds to meet revenue needs and obligations of the City and maintain positive cash balances in the City's various funds; and

WHEREAS, grants sometimes require the City to incur expenses before being eligible to receive reimbursement through grant funds; and

WHEREAS, an interfund loan program is consistent with the prudent management of the City's finances.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. A new chapter is added to the municipal code as set forth in Exhibit A.

SECTION 2. 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 3. 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 4. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2024.

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 (5 days after publication): _____

EXHIBIT A

3.05.010 Interfund loans.

(1) The finance director is authorized to make interfund loans of those municipal monies which are otherwise legally available for investment purposes.

(2) When establishing or accounting for interfund loans:

(a) The finance director has the authority to approve short-term interfund loans for a period not to exceed three calendar months. The mayor has the authority to approve loans for a period not to exceed 12 calendar months. Interfund loans made for a period exceeding one year must be approved by the council by ordinance or resolution.

(b) Interfund borrowing will bear a reasonable rate of interest determined by the finance director. Interest will be charged in all cases unless:

(i) The borrowing fund has no independent source of revenue other than the lending fund;

(ii) The borrowing fund is normally funded by the lending fund; or

(iii) The lending fund is the general fund, which, being unrestricted, can loan interest free, except to a proprietary fund.

(c) The finance director will authorize an interfund loan only after determining that the loaning fund has excess funds available to loan and the use of the funds will not impact the loaning fund's current operations or constitute a permanent diversion of funds.

(d) Only monies that the finance director has determined are clearly inactive or in excess of current needs of the fund may be loaned to other municipal funds or invested.

(e) Appropriate accounting records shall be maintained to reflect the balances of loans payable and receivable in every fund affected by an interfund loan.



Agenda Bill

CITY COUNCIL AGENDA ITEM REPORT

DATE: April 8, 2024

SUBMITTED BY: City Engineer Max Phan , Engineering

ITEM TYPE: Agreement

AGENDA SECTION: **New Business**

SUBJECT: Transportation Improvement Board (TIB) Grant Agreement for the 2024 Pavement Preservation Project*

SUGGESTED ACTION: Recommended Motion: I move to authorize the Mayor to sign and execute the TIB Grant Agreement and Project Funding Status Form for the TIB grant funding of the 2024 Pavement Preservation Project.

SUMMARY: The City was recently awarded \$460,300 in Transportation Improvement Board (TIB) funds through their Complete Streets Program. This grant will fund the construction retrofits of 130 ADA ramps and associated sidewalk improvements for the 2024 Pavement Preservation Project. The remainder of the project will be funded by the city’s TBD program and will include a 2-inch asphalt overlay, pavement repair, planning bituminous pavement, utility adjustment, channelization, restoration and other miscellaneous work.

In order to receive approval from the TIB and to be reimbursed for expenses, the City must sign and return the attached Grant Agreement and Project Funding Status Form.

ATTACHMENTS:
[Grant Agreement - CSP - Marysville - Citywide ADA Ramps.pdf](#)
[Project Funding Status Form - Citywide ADA Ramps.pdf](#)

City of Marysville
C-P-143(001)-1
Citywide ADA Ramps
Multiple Locations

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Marysville
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the Citywide ADA Ramps, Multiple Locations (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of MARYSVILLE, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 8.1737% percent of approved eligible project costs up to the amount of \$460,300, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW and/or chapter 47.04 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT'S Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT'S submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable

amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed April 1, 2025 unless amended by the Parties.

6.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

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

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:

- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue and other revenue sources. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose. The obligations of this Section shall survive termination of this Agreement.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060 and/or WAC 479-10-575. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that

maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.

12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.

15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington and/or 47.04 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. The obligations of this Section shall survive termination of this Agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer Date

Executive Director Date

Print Name

Print Name



Project Funding Status Form

Agency Name: **MARYSVILLE**
Project Name: **Citywide ADA Ramps
Multiple Locations**

TIB Project Number: **C-P-143(001)-1**

Verify the information below and revise if necessary.
Submit by emailing this completed form to your TIB Region Engineer.

PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
MARYSVILLE	5,171,155	
WSDOT	0	
TOTAL LOCAL FUNDS	5,171,155	

Signatures are required from two different agency officials. Return the originally signed form to the TIB office.

Mayor or Public Works Director

Signature

Date

Printed or Typed Name

Title

Financial Officer

Signature

Date

Printed or Typed Name

Title