

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 28, 2019

AGENDA ITEM:	
Interagency Agreement (IAA) Washington Traffic Safety Commission and Marysville Police Department	
PREPARED BY:	DIRECTOR APPROVAL:
J. Goldman	
DEPARTMENT:	
Marysville Police Department	
ATTACHMENTS:	
Interagency Agreement between the Washington Traffic Safety Commission and the Marysville Police Department	
BUDGET CODE:	AMOUNT:
	No Budgetary Obligation
SUMMARY:	

The Washington Traffic Safety Committee has awarded \$216,760.00 to Region 10 (Snohomish County) traffic safety task force (WSP) for the purpose of conducting directed traffic enforcement to reduce the quantity of fatality and severe injury collisions.

The Marysville Police Department will enter into an Interagency Agreement (IAA) for reimbursement of overtime wages for police officers who participate in the regional “Target Zero” enforcement specifically targeting those offenses of Impaired Driving Training, Distracted Driving, Click It or Ticket, Motorcycle Safety, Impaired Driving Training, and Pedestrian Safety through High Visibility Enforcement.

The IAA also identifies those proven effective strategies to insure the most productive outcome to include the identification of a local team, data driven focus, multijurisdictional and saturation approach, public notification before, during, and following enforcement, local media engagement and continued work targeting those High Visibility Enforcement topics.

The duration of this Interagency Agreement between the Washington Traffic Safety Commission and the City of Marysville is October 1, 2019 and will remain in effect until September 30, 2020.

RECOMMENDED ACTION:

Staff recommends the City Council authorize the Mayor to sign the Interagency Agreement for reimbursement of funds associated with Target Zero

INTERAGENCY AGREEMENT

BETWEEN THE

WASHINGTON TRAFFIC SAFETY COMMISSION

AND

Marysville Police Department

THIS AGREEMENT is made and entered into by and between the Washington Traffic Safety Commission, hereinafter referred to as “WTSC,” and Marysville Police Department, hereinafter referred to as “SUB-RECIPIENT.”

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

1. PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to provide funding, provided by the United States Department of Transportation (USDOT) National Highway Traffic Safety Administration (NHTSA) and allowed under the Assistance Listings Catalog of Federal Domestic Assistance (CFDA) numbers 20.600 and 20.616, for the SUB-RECIPIENT to participate in traffic safety grant projects:

- **2020-AG-3656-Snohomish Co. Training Resources Grant**, specifically to provide funding for the SUB-RECIPIENT to fund training and provide overtime to send officers to DUI training and mentoring as outlined in the Statement of Work.
- **2020-AG-3683-Snohomish County Pedestrian Safety Campaign**, specifically to provide funding for the SUB-RECIPIENT to conduct pedestrian safety campaigns involving law enforcement and public awareness/outreach as outlined in the Statement of Work.
- **2020-HVE-3770-Washington Traffic Safety Commission**, specifically to provide funding for the SUB-RECIPIENT to conduct overtime high-visibility enforcement (HVE) traffic safety emphasis patrols and related activities as outlined in the Statement of Work (SOW), in support of Target Zero priorities.

These grants were awarded to the Region 10 to support collaborative efforts to conduct impaired driving training, pedestrian safety, and HVE activities. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved overtime expenses incurred as a participant in these activities.

The Target Zero Manager (TZM) and/or the Law Enforcement Liaison (LEL) shall coordinate SOW activities with the SUB-RECIPIENT with the goal of reducing traffic-related deaths and serious injuries.

2. PERIOD OF PERFORMANCE

The period of performance of this Agreement shall commence upon the date of execution by both Parties, but not earlier than October 1, 2019, and remain in effect until September 30, 2020, unless terminated sooner, as provided herein.

3. STATEMENT OF WORK

3.1 Impaired Driving Training

The goal of this project is to increase the number of Snohomish Co. law enforcement with current training in Driving Under the Influence (DUI) detection, evaluation and arrest processes, to increase the number of DUI arrests in Snohomish Co. This will be achieved through the following activities:

- Provide overtime for training hours for officers that wouldn't otherwise be able to attend DUI training, such as Advanced Roadside Impaired Driving Enforcement (ARIDE), Standard Field Sobriety Testing (SFST) and other DUI related classes.
- Fund registration costs for in-person OR online DUI related classes – including but not limited to: Blood Alcohol Content (BAC), BAC Refresher, ARIDE, Traffic Safety Resource Prosecutor (TSRP), SFST, Marijuana Investigations and other classes as authorized by WTSC's PM
- Conduct DUI mentoring, funding overtime for both the mentors and mentored officers, based on the written policy provided to WTSC. Mentoring should include the mentored officer riding along with a highly proficient officer (an officer that is routinely able to arrest 1 DUI per shift) for one shift, then one shift with the mentor riding along with the mentored officer.
- Fund travel for 2 attendees (Target Zero Manager (TZM) and/or top DUI officers) to the national IACP Drugs and Alcohol Impaired Driving (DAID) conference to enhance their knowledge of DUI best practices. Policy for selection of attendees to be determined by the task force, but will include a letter of interest and a selection process overseen by the TZM.

3.2 Pedestrian Safety

The goal of this project is to reduce crashes involving walkers and vehicle drivers in Snohomish County through use of focused enforcement and public awareness/outreach campaigns:

- The Task Force will identify areas in need of concentrated law enforcement and public outreach using DOT crash data by December 31, 2019.
- Implement a minimum of 15 enforcement emphasis efforts in the areas identified for concentrated effort to increase safety for walkers by September 30, 2020.
- Public education and outreach using radio and social media messaging, informational stops by law enforcement, and public presentations will supplement each enforcement effort.

3.3 HVE

Note: This statement of work applies only to HVE emphasis areas for which your region has received HVE funding.

GOAL: To reduce traffic related deaths and serious injuries through education of impaired driving, occupant protection, speeding and distracted driving multijurisdictional HVE patrols throughout the state.

SCOPE OF WORK: High Visibility Enforcement (HVE) is a proven strategy to reduce vehicular fatalities in serious injuries. There are 8 main components in the best practice model. The WTSC recommends following this model in order to most effectively use this funding.

1. The event is planned by a local team
2. The event is data driven. Interest in the event originates by local recognition of a problem and the community's interest in responding to it.
3. The enforcement is multijurisdictional and uses a saturation approach and participating officers make a large number of contacts during the event and issue infractions or citations to change public behavior around risky driving behaviors such as speeding, distracted driving and failing to use a seatbelt. The WTSC proposes that the default law enforcement response to a high risk driving behavior during an HVE event should be a citation/infraction.
4. The public is aware of the event before, during, and after the enforcement takes place. It's important to note that these messages must reach all target audiences, regardless of English proficiency in the community who use the transportation system.
5. Local media are engaged by the HVE planning team
6. Enforcement is highly visible – clearly more than a typical day.
7. The HVE event is evaluated
8. The HVE event is supported by deployment of resources in the priority areas throughout the year when HVE is not being implemented.

The SUB-RECIPIENT, along with the regional traffic safety task force, TZM, and LEL, are responsible for meeting these elements of HVE. The WTSC will conduct public education campaigns during national campaigns, but it is the responsibility of the SUB-RECIPIENT and task force to ensure that all elements of HVE are being met.

The statewide high visibility enforcement patrols are paired with media participation to engage, deter, and educate drivers about the impacts of making unsafe decisions when driving. Outreach efforts are supported by the WTSC during statewide HVE campaigns. Regional TZMs also support public outreach efforts during locally planned HVE events. Below are descriptions of the Scope of Work for each funding category. The WTSC accepts requests for modifications to the Scope of Work through the regional Target Zero Manager.

This grant provides funding for overtime HVE enforcement in a variety of emphasis areas: impaired driving, distracted driving, seat belt use, and motorcycle safety patrols.

Dispatch:

WTSC will reimburse communications officers/dispatch personnel for work on this project providing Agency has received prior approval from the designated TZM.

HVE Enforcement Plan Requirement:

A HVE Mobilization Plan is required prior to all HVE activity. The local traffic safety task force and TZM are responsible for submitting this form to the WTSC HVE Program Manager prior to enforcement activities begin. This form serves as prior approval for HVE events and includes the following information:

- Problem Statement
- Description of enforcement strategy, including expected law enforcement agencies participating in the event, target violation, and target locations
- Public outreach strategy, to include how the multiple cultural groups in a community will be reached with these messages.
- Evaluation plan

Media Contacts:

All of these patrols are conducted as part of a highly publicized, educational effort. Publicity campaigns about these patrols are planned to alert the public to the fact that extra patrols are targeting these violations. The WTSC requests that the SUB-RECIPIENT posts traffic safety information to their web-based platforms during statewide and locally coordinated HVE mobilizations. **At least one individual from the SUB-RECIPIENT must be available for weekend media contacts, beginning at noon on Fridays before mobilizations.**

Standardized Field Sobriety Testing (SFST) Training Requirement:

The SUB-RECIPIENT certifies that all officers participating in these patrols are SFST trained. WTSC's expectation is that each participating officer will make one DUI arrest per shift. If this standard is not met, participating agencies must submit an explanation to the TZM explaining why this standard was not met. Officers must also meet the following requirements:

- Officer must be BAC certified and have passed the SFST refresher training within the prior three years, or
- Officer must have successfully completed Advanced Roadside Impaired Driving Enforcement (ARIDE), or
- Officer must be a certified Drug Recognition Expert.
- **For impaired driving HVE mobilizations, there is one additional requirement:**
 - **Officers must have made a DUI/DWI arrest within the past twelve months.**

The Following sections in the SOW are for specific enforcement emphasis areas:

Impaired Driving Enforcement:

Impaired driving (also referred to as Driving Under the Influence, or DUI) remains a top priority for the WTSC. Year after year, roughly 50% of WA's vehicular fatalities are due to impaired driving. HVE has been shown to reduce impaired driving fatalities when the model is followed.

Overtime Impaired driving enforcement patrols must be planned and coordinated by the regional traffic safety taskforce, including the TZM and LEL. The DUI patrols shall be deployed at locations where the data indicates that the most traffic safety benefit can be realized as determined by the local Traffic Safety Task Force. Except when prior approval is provided, impaired driving HVE must begin after 8:00 p.m and will occur Thursday-Sunday. The WTSC requires that impaired driving HVE patrols are done using multijurisdictional collaboration.

The priority for this funding is participation in the national campaigns:

- Holiday DUI Patrols – December 11 – January 2
- Drive Sober or Get Pulled Over – August 19 – September 7

The DUI patrols shall be deployed at locations where the data indicates that the most traffic safety benefit can be realized as determined by the local Traffic Safety Task Force. Except when prior approval is provided, impaired driving HVE must begin after 8:00 p.m. and will occur Thursday-Sunday.

Funding in this category can be expended outside of the campaign periods. However, the funds must only be used for impaired driving enforcement and during another national impaired driving enforcement campaign or other large local event. Participation during Holiday DUI Patrols and Drive Sober or Get Pulled Over should be prioritized when scheduling enforcement dates.

The WTSC encourages law enforcement agencies to use this funding to support the professional growth of officers with limited exposure to impaired driving enforcement. With the approval of the region's TZM and WTSC, officers can participate in mentoring for impaired driving enforcement. Requirements for this use of funds include the following:

- WTSC approval for impaired driving mentorship is done through the HVE Mobilization Plan. Approval for mentorship must be received prior to the activity date.
- The training officer must be a Drug Recognition Expert or ARIDE trained. TZMs can submit a request for an officer who doesn't meet these requirements to be a mentor. This request must be detailed on the HVE Mobilization Plan.
- There must be a review of the SFST procedure prior to the enforcement activity.
- There is a limit of two times per year that an officer can be a mentee.
- Funds permitting, mentees will participate in at least 1 impaired driving mobilization after completing mentoring.
- Each region or county-level task force can set additional requirements for participation in this use of funding.
- To be eligible for this activity, the task force must have a policy for DUI Mentoring.
- Funding will pay for overtime for the mentor officer and the mentee officer.
- Mentees should demonstrate their ability to make one DUI arrest per shift following their mentoring.

This funding can be used to conduct premise checks in bars and other establishments that sell alcohol. To be used for this purpose, the activity must meet the following requirements:

- Approval for this activity is done through the HVE Mobilization Plan. This plan must be received prior to the activity date. It should include details such as the estimated number of hours and officers who will be participating in this activity. It should also include a plan for what officers will discuss with the premise (Ex. distributing coasters, HVE dedication materials, mobilization creative, etc.)
- Each establishment is counted as one contact on the Officer Activity Log.
- The WA Liquor and Cannabis Board must be notified in advance of this activity to encourage collaboration and support.

These funds can be used for DUI warrant round-up events. Prior approval is needed for these activities and must include evidence of thorough planning.

Distracted Driving Enforcement:

With the State of Washington’s distracted driving law, these patrols will be important to ensure through education and enforcement that drivers understand and are following the new law. These patrols shall be deployed at locations where the data indicates that the most traffic safety benefit can be realized as determined by the local Traffic Safety Task Force. Wherever possible these patrols shall occur in areas with the highest number of past distracted driving violations. The WTSC requires that distracted driving HVE patrols are conducted using a team approach with designated spotters. This approach has shown to best identify distracted driving violations. Minimum teams of 3 can conduct distracted driving HVE patrols – 1 spotter and at least 2 officers responding to violations.

In order to be eligible to receive distracted driving HVE funds in FFY2020, the SUB-RECIPIENT must have at least 1 citation issued during the FFY2019 On the Road Off the Phone campaign. Agencies that did not participate in the FFY2019 On the Road Off the Phone campaign are eligible for funding.

The priority for this funding is participation in the national campaign, On the Road Off the Phone, April 1 - 18, 2020. However, this funding can be expended outside of the national campaign, but the funds must only be used for distracted driving enforcement.

Seat Belt Use Enforcement:

Washington has one of the highest seatbelt use rates in the country, yet many of the state’s vehicular fatalities and serious injuries involved unbelted drivers and passengers. Funding for seatbelt enforcement will be prioritized using data from WTSC’s Research and Data Division, such as seatbelt use rates and fatal and serious injury data.

At this point, funding distribution has yet to be determined.

Motorcycle Safety Patrols

The SUB-RECIPIENT will engage in multijurisdictional HVE patrols, as part of the national effort, for all or part of the following campaign:

- It’s A Fine Line – July 10 – 26

These motorcycle safety patrols shall be deployed at locations where the data indicates that the most traffic safety benefit can be realized as determined by the local Traffic Safety Task Force. Patrols must take place Friday, Saturday, or Sunday during the It's A Fine Line campaign.

Patrols should focus on the illegal and unsafe driving actions of motorcycles that are known to cause serious and fatal crashes. This includes impaired driving, speeding, and following too closely.

Patrols should also focus on the illegal and unsafe driving actions of all other motor vehicles when relating to motorcycles. This includes speeding, failure to yield to a motorcycle, following too closely to a motorcycle, distracted driving, etc.

Whenever possible, SUB-RECIPIENT should include motorcycle officers in these patrols.

3.1. MILESTONES AND DELIVERABLES

Mobilization

DUI Holiday Patrols

Distracted Driving

Click It or Ticket

It's A Fine Line

DUI Drive Sober or Get Pulled Over

Dates

December 11 – January 2

April 1 – 18

May 18 – 31

July 10 – 26

August 19 – September 7

3.2. COMPENSATION

3.2.1. Compensation for the overtime work provided in accordance with this Agreement has been established under the terms of RCW 39.34. The cost of accomplishing the work described in the SOW will not exceed the total grant award for the region, unless agreed upon by WTSC and the SUB-RECIPIENT. The funding award for the SUB-RECIPIENT'S region is detailed in section 3.3.

All law enforcement agencies who are active members of the Region 10 traffic safety task force are eligible to participate in this grant. Payment for satisfactory performance of the overtime work shall not exceed this amount unless the Parties mutually agree to a higher amount in a written Amendment to this Agreement executed by both Parties.

Payment will be authorized by the Region 10 Target Zero manager in accordance with the Snohomish Co. Traffic Safety Task Force policies.

3.2.2. WTSC will reimburse for personnel overtime expenses at 150 percent of the officer's normal salary rate plus SUB-RECIPIENT's contributions to employee benefits, limited to the following:

- FICA
- Medicare
- Any portion of L & I that is paid by the employer (SUB-RECIPIENT)
- Retirement contributions paid by the employer (SUB-RECIPIENT) can be included if the contribution is based on a percentage of their hours worked

Health insurance, or any other benefits not listed above, are not eligible for reimbursement.

Comp-time is not considered overtime and will not be approved for payment.

The SUB-RECIPIENT will provide law enforcement officers with appropriate equipment (e.g., vehicles, radars, breath testers, etc.) to participate in the emphasis patrols.

3.2.3. If the SUB-RECIPIENT intends to charge indirect costs, an Indirect Cost Rate must be established in accordance with WTSC policies, and a federally-approved cost allocation plan may be required to be submitted to the WTSC before any performance is conducted under this Agreement.

3.2.4. The SUB-RECIPIENT must submit a travel authorization form (A-40) to request approval for any travel not defined in the scope of work and for all travel outside of the continental United States. State travel policies (SAAM Chapter 10) would apply.

3.2.5. If WTSC makes travel arrangements on behalf of the SUB-RECIPIENT, state travel policies must be followed. See Washington State Administrative & Accounting Manual (SAAM) Chapter 10.

3.2.6. WTSC will reimburse travel related expenses consistent with the written travel policies of the SUB-RECIPIENT. If no written policy exists, state travel policies (SAAM Chapter 10) apply.

3.2.7. WTSC will only reimburse the SUB-RECIPIENT for travel related expenses for travel defined in the scope of work and budget or for which approval was expressly granted. The SUB-RECIPIENT must provide appropriate documentation (receipts) to support reimbursement requests, including the A-40 Travel Authorization form if required.

3.3. SUMMARY OF PROJECT COSTS

The WTSC has awarded \$216,760 to the Region 10 traffic safety task force for the purpose of conducting activities described in the SOW. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved overtime expenses incurred as a participant in this grant. All activity must be coordinated by the region's traffic safety task force and TZM in order to be eligible for reimbursement.

The funding for Region 10 is as follows:

Impaired Driving Patrols (Section 402, CFDA 20.600)	\$70,000
Distracted Driving Patrols (Section 402, CFDA 20.600)	\$27,000
Click It or Ticket (Section 405b, CFDA 20.616)	\$0.00
Motorcycle Safety (164 Funds, CFDA 20.608)	\$15,000

Impaired Driving Training (Section 402, CFDA 20.600)	\$60,000
Pedestrian Safety Project (Section 405h, CFDA 20.616)	\$44,760

3.3.1. The funds issued under this Agreement are only to be used for the specified category and shall not be commingled between categories.

APPLICABLE STATE AND FEDERAL TERMS AND CONDITIONS:

4. PARTICIPATION REQUIREMENTS AND CONDITIONS

For each of the overtime emphasis patrols listed in the Statement of Work, the SUB-RECIPIENT will follow all protocols detailed in the “Multijurisdictional High Visibility Enforcement Protocols,” which will be provided by the WTSC. Exceptions to these protocols must be pre-approved by the WTSC prior to the emphasis patrol(s).

5. PERFORMANCE STANDARDS

Participating law enforcement officers working overtime hours are expected to make a minimum of three self-initiated contacts per hour of enforcement. The WTSC recognizes that some contacts may result in time-consuming enforcement-related activities, and these activities are reimbursable. Other activities, such as collision investigations or emergency response that are not initiated through emphasis patrol contact WILL NOT be reimbursed.

6. ACTIVITY REPORTS

The SUB-RECIPIENT agrees to have all personnel who work HVE patrols submit an officer Emphasis Patrol Log to their regional TZM, or by other approved means, within 48 hours of the end of all shifts worked. These same logs will be associated with invoices as detailed in the “BILLING PROCEDURE” section. Use of the Officer Activity Log in the WTSC’s online grant management system, WEMS, is required when the functionality is available in WEMS.

7. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Agreement shall be made by the WTSC.

8. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties in the form of a written request to amend this Agreement. Such amendments shall only be binding if they are in writing and signed by personnel authorized to bind each of the Parties. Changes to the budget, SUB-RECIPIENT’S Primary Contact, and WTSC Program Manager can be made through email communication and signatures are not required.

9. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

10. ASSIGNMENT

The SUB-RECIPIENT may not assign the work to be provided under this Agreement, in whole or in part, without the express prior written consent of the WTSC, which consent shall not be unreasonably withheld. The SUB-RECIPIENT shall provide the WTSC a copy of all third-party contracts and agreements entered into for purposes of fulfilling the SOW. Such third-party contracts and agreements must follow applicable federal, state, and local law, including but not limited to procurement law, rules, and procedures. If any of the funds provided under this Agreement include funds from NHTSA, such third-party contracts and agreements must include the federal provisions set forth in this Agreement in sections 34 through 42.

11. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the Agreement terms, each Party agrees to bear its own attorney fees and costs.

12. BILLING PROCEDURE

Payment to the SUB-RECIPIENT for approved and completed work will be made by warrant or account transfer by WTSC within 30 days of receipt of such properly documented invoices acceptable to WTSC. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 45 days after the expiration date of this Agreement. All invoices for goods received or services performed on or prior to June 30, 2020, **must be received by WTSC no later than August 10, 2020**. All invoices for goods received or services performed between July 1, 2020 and September 30, 2020, **must be received by WTSC no later than November 10, 2020**.

12.1 For Impaired Driving Training and Pedestrian Safety grants

The SUB-RECIPIENT shall submit monthly invoices for reimbursement to WTSC with supporting documentation as WTSC shall require. All invoices for reimbursement shall be submitted through WEMS using a standard Form A-19 provided by WTSC or its pre-approved equivalent, as determined by the WTSC.

12.2 For HVE

The WTSC is currently developing functionality in WEMS to streamline enforcement activity and invoice submission. The WTSC requires that this functionality be used for billing when available. Instructions and requirements for using this functionality will be provided at a later date.

Prior to activity and invoice submission by the SUB-RECIPIENT in WEMS, the SUB-RECIPIENT shall submit monthly invoices for reimbursement to the TZM with supporting documentation, as WTSC shall require. The TZM will submit all approved invoices to the WTSC via WEMS within 10 days of receipt.

All invoices for reimbursement must include the following. . Note – this will likely change when the new invoicing process is implemented.

- Form A-19 provided by WTSC or its pre-approved equivalent. The hourly rate of each officer included on the invoice must be identified.
- Emphasis Patrol Log for each officer
- WTSC's Overtime Log or the SUB-RECIPIENT's overtime approval sheets signed by the officer's supervisor

13. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

The SUB-RECIPIENT shall not use or disclose any information concerning the WTSC, or information which may be classified as confidential, for any purpose not directly connected with the administration of this Agreement, except with prior written consent of the WTSC, or as may be required by law.

14. COST PRINCIPLES

Costs incurred under this Agreement shall adhere to provisions of 2 CFR Part 200 Subpart E.

15. COVENANT AGAINST CONTINGENT FEES

The SUB-RECIPIENT warrants that it has not paid, and agrees not to pay, any bonus, commission, brokerage, or contingent fee to solicit or secure this Agreement or to obtain approval of any application for federal financial assistance for this Agreement. The WTSC shall have the right, in the event of breach of this section by the SUB-RECIPIENT, to annul this Agreement without liability.

16. DISPUTES

16.1. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the WTSC Deputy Director or designee. This decision shall be final and conclusive, unless within 10 days from the date of the SUB-RECIPIENT's receipt of WTSC's written decision, the SUB-RECIPIENT furnishes a written appeal to the WTSC Director. The SUB-RECIPIENT's appeal shall be decided in writing by the Director or designee within 30 days of receipt of the appeal by the Director. The decision shall be binding upon the SUB-RECIPIENT and the SUB-RECIPIENT shall abide by the decision.

16.2. Performance During Dispute. Unless otherwise directed by WTSC, the SUB-RECIPIENT shall continue performance under this Agreement while matters in dispute are being resolved.

17. GOVERNANCE

17.1. This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

17.2. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

17.2.1. Applicable federal and state statutes and rules

17.2.2. Terms and Conditions of this Agreement

17.2.3. Any Amendment executed under this Agreement

17.2.4. Any SOW executed under this Agreement

17.2.5. Any other provisions of the Agreement, including materials incorporated by reference

18. INCOME

Any income earned by the SUB-RECIPIENT from the conduct of the SOW (e.g., sale of publications, registration fees, or service charges) must be accounted for, and that income must be applied to project purposes or used to reduce project costs.

19. INDEMNIFICATION

19.1. To the fullest extent permitted by law, the SUB-RECIPIENT shall indemnify and hold harmless the WTSC, its officers, employees, and agents, and process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs of whatsoever kind (“claims”) brought against WTSC arising out of or in connection with this Agreement and/or the SUB-RECIPIENT’s performance or failure to perform any aspect of the Agreement. This indemnity provision applies to all claims against WTSC, its officers, employees, and agents arising out of, in connection with, or incident to the acts or omissions of the SUB-RECIPIENT, its officers, employees, agents, contractors, and subcontractors. Provided, however, that nothing herein shall require the SUB-RECIPIENT to indemnify and hold harmless or defend the WTSC, its agents, employees, or officers to the extent that claims are caused by the negligent acts or omissions of the WTSC, its officers, employees or agents; and provided further that if such claims result from the concurrent negligence of (a) the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors, and (b) the WTSC, its officers, employees, or agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors.

19.2. The SUB-RECIPIENT waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the WTSC, its officers, employees, or agents.

19.3. The indemnification and hold harmless provision shall survive termination of this Agreement.

20. INDEPENDENT CAPACITY

The employees or agents of each Party who are engaged in the performance of this Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of the other Party.

21. INSURANCE COVERAGE

21.1. The SUB-RECIPIENT shall comply with the provisions of Title 51 RCW, Industrial Insurance, if required by law.

21.2. If the SUB-RECIPIENT is not required to maintain insurance in accordance with Title 51 RCW, prior to the start of any performance of work under this Agreement, the SUB-RECIPIENT shall provide WTSC with proof of insurance coverage (e.g., vehicle liability insurance, private property liability insurance, or commercial property liability insurance), as determined appropriate by WTSC, which protects the SUB-RECIPIENT and WTSC from risks associated with executing the SOW associated with this Agreement.

22. LICENSING, ACCREDITATION, AND REGISTRATION

The SUB-RECIPIENT shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of this Agreement. The SUB-RECIPIENT shall complete registration with the Washington State Department of Revenue, if required, and be responsible for payment of all taxes due on payments made under this Agreement.

23. RECORDS MAINTENANCE

23.1. During the term of this Agreement and for six years thereafter, the SUB-RECIPIENT shall maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect

costs expended in the performance of the services described herein. These records shall be subject to inspection, review, or audit by authorized personnel of the WTSC, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration. The Office of the State Auditor, federal auditors, the WTSC, and any duly authorized representatives shall have full access and the right to examine any of these materials during this period.

23.2. Records and other documents, in any medium, furnished by one Party to this Agreement to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. The receiving Party will not disclose or make available this material to any third Parties without first giving notice to the furnishing Party and giving them a reasonable opportunity to respond. Each Party will utilize reasonable security procedures and protections to assure that records and documents provided by the other Party are not erroneously disclosed to third Parties.

24. RIGHT OF INSPECTION

The SUB-RECIPIENT shall provide right of access to its facilities to the WTSC or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement. The SUB-RECIPIENT shall make available information necessary for WTSC to comply with the right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The SUB-RECIPIENT shall upon request make available to the WTSC and the United States Secretary of the Department of Health and Human Services all internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of Personal Information obtained or used as a result of this Agreement.

25. RIGHTS IN DATA

25.1. WTSC and SUB-RECIPIENT agree that all data and work products (collectively called “Work Product”) pursuant to this Agreement shall be considered works made for hire under the U.S. Copyright Act, 17 USC §101 et seq., and shall be owned by the state of Washington. Work Product includes, but is not limited to, reports, documents, pamphlets, advertisement, books, magazines, surveys, studies, computer programs, films, tapes, sound reproductions, designs, plans, diagrams, drawings, software, and/or databases to the extent provided by law. Ownership includes the right to copyright, register the copyright, distribute, prepare derivative works, publicly perform, publicly display, and the ability to otherwise use and transfer these rights.

25.2. If for any reason the Work Product would not be considered a work made for hire under applicable law, the SUB-RECIPIENT assigns and transfers to WTSC the entire right, title, and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

25.3. The SUB-RECIPIENT may publish, at its own expense, the results of project activities without prior review by the WTSC, provided that any publications (written, visual, or sound) contain acknowledgment of the support provided by NHTSA and the WTSC. Any discovery or invention derived from work performed under this project shall be referred to the WTSC, who will determine through NHTSA whether patent

protections will be sought, how any rights will be administered, and other actions required to protect the public interest.

26. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to completion of the SOW under this Agreement, the WTSC may terminate the Agreement under the "TERMINATION FOR CONVENIENCE" clause, without the 30-day notice requirement. The Agreement is subject to renegotiation at the WTSC's discretion under any new funding limitations or conditions.

27. SEVERABILITY

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

28. SITE SECURITY

While on WTSC premises, the SUB-RECIPIENT, its agents, employees, or sub-contractors shall conform in all respects with all WTSC physical, fire, or other security policies and applicable regulations.

29. TAXES

All payments of payroll taxes, unemployment contributions, any other taxes, insurance, or other such expenses for the SUB-RECIPIENT or its staff shall be the sole responsibility of the SUB-RECIPIENT.

30. TERMINATION FOR CAUSE

If the SUB-RECIPIENT does not fulfill in a timely and proper manner its obligations under this Agreement or violates any of these terms and conditions, the WTSC will give the SUB-RECIPIENT written notice of such failure or violation, and may terminate this Agreement immediately. At the WTSC's discretion, the SUB-RECIPIENT may be given 15 days to correct the violation or failure. In the event that the SUB-RECIPIENT is given the opportunity to correct the violation and the violation is not corrected within the 15-day period, this Agreement may be terminated at the end of that period by written notice of the WTSC.

31. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Agreement, either Party may terminate this Agreement, without cause or reason, with 30 days written notice to the other Party. If this Agreement is so terminated, the WTSC shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

32. TREATMENT OF ASSETS

32.1. Title to all property furnished by the WTSC shall remain property of the WTSC. Title to all property furnished by the SUB-RECIPIENT for the cost of which the SUB-RECIPIENT is entitled to be reimbursed as a direct item of cost under this Agreement shall pass to and vest in the WTSC upon delivery of such property by the SUB-RECIPIENT. Title to other property, the cost of which is reimbursable to the SUB-RECIPIENT under this Agreement, shall pass to and vest in the WTSC upon (i) issuance for use of such property in the performance of this Agreement, or (ii) commencement of use of such property in the

performance of this Agreement, or (iii) reimbursement of the cost thereof by the WTSC in whole or in part, whichever first occurs.

32.2. Any property of the WTSC furnished to the SUB-RECIPIENT shall, unless otherwise provided herein or approved by the WTSC, be used only for the performance of this Agreement.

32.3. The SUB-RECIPIENT shall be responsible for any loss or damage to property of the WTSC which results from the negligence of the SUB-RECIPIENT or which results from the failure on the part of the SUB-RECIPIENT to maintain and administer that property in accordance with sound management practices.

32.4. If any WTSC property is lost, destroyed, or damaged, the SUB-RECIPIENT shall immediately notify the WTSC and shall take all reasonable steps to protect the property from further damage.

32.5. The SUB-RECIPIENT shall surrender to the WTSC all property of the WTSC upon completion, termination, or cancellation of this Agreement.

32.6. All reference to the SUB-RECIPIENT under this clause shall also include SUB-RECIPIENT's employees, agents, or sub-contractors.

33. WAIVER

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement.

APPLICABLE CERTIFICATIONS AND ASSURANCES FOR HIGHWAY SAFETY GRANTS (23 CFR PART 1300 APPENDIX A):

34. BUY AMERICA ACT

The SUB-RECIPIENT will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using federal funds. Buy America requires the SUB-RECIPIENT to purchase only steel, iron, and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use federal funds to purchase foreign produced items, the WTSC must submit a waiver request that provides an adequate basis and justification, and which is approved by the Secretary of Transportation.

35. DEBARMENT AND SUSPENSION

Instructions for Lower Tier Certification

35.1. By signing this Agreement, the SUB-RECIPIENT (hereinafter in this section referred to as the “lower tier participant”) is providing the certification set out below and agrees to comply with the requirements of 2 CFR part 180 and 23 CFR part 1300.

35.2. The certification in this section is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the lower tier participant knowingly

rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

35.3. The lower tier participant shall provide immediate written notice to the WTSC if at any time the lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

35.4. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Covered Transactions sections of 2 CFR part 180.

35.5. The lower tier participant agrees by signing this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

35.6. The lower tier participant further agrees by signing this Agreement that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions, and will require lower tier participants to comply with 2 CFR part 180 and 23 CFR part 1300.

35.7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

35.8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

35.9. Except for transactions authorized under paragraph 35.5. of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

35.10. The lower tier participant certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

35.11. Where the lower tier participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Agreement.

36. THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

36.1. The SUB-RECIPIENT shall:

36.1.1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace, and shall specify the actions that will be taken against employees for violation of such prohibition.

36.1.2. Establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the SUB-RECIPIENT's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug violations occurring in the workplace.

36.1.3. Make it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph 36.1.1. of this section.

36.1.4. Notify the employee in the statement required by paragraph 36.1.1. of this section that, as a condition of employment under the grant, the employee will abide by the terms of the statement, notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction, and notify the WTSC within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction.

36.1.5. Take one of the following actions within 30 days of receiving notice under paragraph 36.1.3. of this section, with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination, and/or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

36.1.6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

37. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

In accordance with FFATA, the SUB-RECIPIENT shall, upon request, provide WTSC the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

38. FEDERAL LOBBYING

38.1. The undersigned certifies, to the best of his or her knowledge and belief, that:

38.1.1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

38.1.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

38.1.3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grant, loans, and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly.

38.2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

39. NONDISCRIMINATION (Title VI, 42 U.S.C. § 2000d et seq.)

39.1. During the performance of this Agreement, the SUB-RECIPIENT agrees:

39.1.1. To comply with all federal nondiscrimination laws and regulations, as may be amended from time to time.

39.1.2. Not to participate directly or indirectly in the discrimination prohibited by any federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR Part 21 and herein.

39.1.3. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the WTSC, USDOT, or NHTSA.

39.1.4. That, in the event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding Agreement, the WTSC will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies, and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part.

39.1.5. To insert this clause, including all paragraphs, in every sub-contract and sub-agreement and in every solicitation for a sub-contract or sub-agreement that receives federal funds under this program.

40. POLITICAL ACTIVITY (HATCH ACT)

The SUB-RECIPIENT will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

41. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

The SUB-RECIPIENT will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists. This Agreement does not include any aspects or elements of helmet usage or checkpoints, and so fully complies with this requirement.

42. STATE LOBBYING

None of the funds under this Agreement will be used for any activity specifically designed to urge or influence a state or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any state or local legislative body. Such activities include both direct and indirect (e.g., “grassroots”) lobbying activities, with one exception. This does not preclude a state official whose salary is supported with NHTSA funds from engaging in direct communications with state or local legislative officials, in accordance with customary state practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

43. DESIGNATED CONTACTS

The following named individuals will serve as designated contacts for each of the Parties for all communications, notices, and reimbursement regarding this Agreement:

HVE Grant Designated Contacts:

The Contact for the SUB-RECIPIENT is:	The Contact for WTSC is:
Officer Joseph Belleme Officer Brandon Lawrenson	Jerry Noviello WTSC Program Manager jnoviello@wtsc.wa.gov 360-725-9897

Impaired Driving Training Grant Designated Contacts:

The Contact for the SUB-RECIPIENT is:	The Contact for WTSC is:
Officer Joseph Belleme Officer Brandon Lawrenson	Debi Besser WTSC Program Manager dbesser@wtsc.wa.gov 360-725-9890

Pedestrian Safety Grant Designated Contacts:

The Contact for the SUB-RECIPIENT is:	The Contact for WTSC is:
Officer Joseph Belleme Officer Brandon Lawrenson	Scott Waller WTSC Program Manager swaller@wtsc.wa.gov 360-725-9885

44. AUTHORITY TO SIGN

The undersigned acknowledges that they are authorized to execute this Agreement and bind their respective agencies or entities to the obligation set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement.

SUB RECIPIENT AGENCY NAME	WASHINGTON TRAFFIC SAFETY COMMISSION
_____ Signature	_____ Signature
_____ Printed Name	_____ Printed Name
_____ Title	_____ Title
_____ Date	_____ Date