

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: October 12, 2020

AGENDA ITEM:	
Interlocal Agreement Between the Washington Traffic Safety Commission and the Marysville Police Department	
PREPARED BY:	DIRECTOR APPROVAL:
J. Goldman, Assistant Chief	
DEPARTMENT:	
Marysville Police Department	
ATTACHMENTS:	
Interagency Agreement Between the Washington Traffic Safety Commission and the Marysville Police Department	
BUDGET CODE:	AMOUNT:
N/A	
SUMMARY:	

The purpose of this Interagency Agreement is to provide access to regional funding, managed by the Target Zero Manager Stacey McShane as authorized by the US Department of Transportation and the National Highway Traffic Safety Administration.

This Interagency Agreement affords an opportunity for the Marysville Police Department to participate in regionally targeted “High Visibility Enforcement” efforts of those events to include: 1) Impaired Driving, 2) Distracted Driving, and 3) Motorcycle Safety through the FFY 2021 Project. All reimbursements will consist of police officers overtime costs while assigned to the identified “High Visibility Enforcement” assignments.

The enforcement and reimbursements per the Interagency Agreement will not commence until the date of execution by both parties and no sooner than October 1, 2020 and will remain in effect until September 30, 2021.

RECOMMENDED ACTION: Staff recommends that Council authorize the Mayor or sign and execute the Interagency Agreement between the Washington Traffic Safety Commission and the Marysville Police Department.
RECOMMENDED MOTION: I move to authorize the Mayor to sign and execute _____.

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 traffic safety grant project **2021-HVE-4044-Region 10 Target Zero Task Force**, specifically to provide funding for the law enforcement agencies in WTSC Region 10 to conduct overtime high-visibility enforcement (HVE) traffic safety emphasis patrols as outlined in the Statement of Work (SOW), in support of Target Zero priorities. The Target Zero Manager (TZM) and/or the Law Enforcement Liaison (LEL) shall coordinate the SOW with the SUB-RECIPIENT with the goal of reducing traffic crashes.

Grant **2021-HVE-4044-Region 10 Target Zero Task Force** was awarded to the **Region 10** to support collaborative efforts to conduct HVE activities. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved overtime expenses incurred as a participant in the region’s HVE grant.

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, 2020, and remain in effect until September 30, 2021, unless terminated sooner, as provided herein.

3. STATEMENT OF WORK

SCOPE OF WORK:

Note: This statement of work applies only to High Visibility Emphasis patrols (HVE) for traffic safety areas which your region has received HVE funding.

GOAL: To prevent traffic crashes to reduce traffic related deaths and serious injuries through increased enforcement.

STRATEGY: Prevent drivers from engaging in high risk behaviors by increasing their perception of the risk of receiving a citation through high visibility enforcement campaigns (HVE). HVE Campaigns influence driver behavior by creating the perception that there is an increased risk of engaging in risky driving behaviors. This perception is achieved through 1) an increase in media messages about upcoming emphasis periods so that the targeted drivers know when the patrols will occur and what will be enforced and 2) during the patrols drivers have the perception of increased enforcement because they can see a significant and noticeable increase in law enforcement presence (officers pulling cars over) that reinforces the media messages they received and influences them to modify their driving behavior.

OBJECTIVES: Research and experience has shown that the strategy is only effective if all partners that engage in HVE adhere to these requirements. The SUB-RECIPIENT agrees to follow all seven of these requirements.

1. Implement the mobilization plan developed by the local traffic safety task force for each HVE event that includes:
 - a. Problem Statement
 - b. Description of enforcement strategy, including expected law enforcement agencies participating in the event, target violation, and target locations so that the HVE has the greatest chance of preventing traffic crashes.
 - c. Public outreach strategy that targets the drivers most likely to contribute to traffic crashes.
 - d. Evaluation plan
2. The event is data driven. This means data (such as traffic crash data) is used to identify the locations where the HVE should occur and drivers with the highest potential of causing traffic crashes.
3. The enforcement is multijurisdictional and uses a saturation approach. This means SUB-RECIPIENT is coordinating its efforts with adjacent law enforcement agencies so that the driving public has the perception of law enforcement omnipresence on the targeted roads. Enforcement is highly visible – clearly more than a typical day. WTSC proposes that no less than three officers work an HVE.
4. Each participating officer will make at least 3 contacts per hour.
5. The public is made aware of the event before, during, and after the enforcement takes place. This means that messages reach all target audiences in the community, regardless of English proficiency, who use the targeted transportation system. The WTSC will conduct statewide 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.
6. Local media are highly involved in the effort to reach communities in which HVE will occur.

7. The SUB-RECIPIENT deploys resources to enforce traffic laws in priority areas throughout the year when HVE is not being implemented.

ADDITIONAL REQUIREMENTS FOR ALL HVE EVENTS:

In addition to the seven critical elements, SUB-RECIPIENT agrees to all of the following requirements for all HVE events.

1. To use the WEMS system provided by the WTSC to record all activities conducted by their commissioned officers pursuant to the HVE events. SUB-RECIPIENT will also ensure all supervisors and fiscal staff have the ability to review and edit those activity logs.
2. All participating staff receive a briefing prior to the event so that every participant understands and can explain all of the items on the briefing list below. This can be done in person (preferred) or electronic via telephone, email, or virtually.
 - Purpose, goals, strategy, and objectives of the specific HVE event with a focus on the targeted locations and driving behaviors
 - List of on-call DREs and request procedures
 - How to fill out their digital activity log in WEMS
 - Information on how the Mobile Impaired Driving Unit will be used (if applicable)
 - Dispatch information
 - All Participating officers
 - Spotter processes (if applicable)
 - Available Draeger machines and locations
3. All officers participating in these patrols are BAC certified and passed the SFST refresher training within the prior three years (this is regardless of ARIDE or DRE Training mentioned below).
4. To utilize all available media platforms it has available (website, email newsletters, social media etc...) to the fullest extent to publicize the HVE events.
5. Make at least one individual available for weekend media contacts, beginning at noon on Fridays before HVE mobilizations.

ADDITIONAL REQUIREMENTS FOR SPECIFIC HVE EVENTS

In addition to the seven critical elements, and the additional requirements of all HVE events, the SUB-RECIPIENT agrees to all of the following requirements for each type of specific HVE in which they will participate.

1. IMPAIRED DRIVING:
 - a. Impaired driving HVE events must begin after 8:00 p.m. and occur between Thursday-Sunday.
 - b. SUB-RECIPIENT will ensure participating officers have made a DUI/DWI arrest within the past twelve months.

- c. SUB-RECIPIENT will participate in national impaired driving HVE events including:
 - i. Holiday DUI Patrols (December 11 – January 2)
 - ii. Drive Sober or Get Pulled Over (August 20 – September 6)

2. DISTRACTED DRIVING

- a. Distracted driving HVE events will be conducted using a team approach with designated spotters.
- b. SUB-RECIPIENT will participate in national impaired driving HVE events including:
 - i. U Drive. U Text. U Pay. (October 5 – 12)
 - ii. On the Road, Off the Phone (April 1 – 19)

3. MOTORCYCLE SAFETY PATROLS

- a. Patrols will 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.
- b. Patrols will 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.
- c. SUB-RECIPIENT will utilize motorcycle officers in these patrols to the fullest extent possible.
- d. The SUB-RECIPIENT will engage in multijurisdictional HVE patrols, as part of a regional or national effort, for all or part of the following campaigns:
 - i. It's a Fine Line – July 11 – 27, 2021. Note: Patrols must take place Friday, Saturday, or Sunday during the campaign.
 - ii. Oyster Run Event – Summer 2021 (Region 11 only)
 - iii. ABATE Spring Opener – Summer 2021 (Region 12 only)
 - iv. Ocean Shores Motorcycle Event (formerly Bikers at the Beach) – Summer 2021 (Region 2 only)

OTHER CONSIDERATIONS, EXCEPTIONS, AND NOTES REGARDING HVE EVENTS

At least three contacts per hour requirement explained:

- Participating law enforcement officers should make as many contacts as they can during their OT patrol in the spirit of changing driving behavior.
- They must make a minimum of three self-initiated contacts per hour of enforcement unless they engage in a related enforcement activity that prevents them from doing so – in which case, the contact requirement is waived while the officer is addressing that activity. For example, if an officer stops a vehicle and arrests the driver for DUI, he/she is not required to make three contacts per hour for the time spent processing the DUI.
- Other activities, such as collision investigations or emergency response that are not initiated through emphasis patrol contact WILL NOT be reimbursed.

Impaired Driving HVE events:

- The WTSC encourages participation from officers who have successfully completed Advanced Roadside Impaired Driving Enforcement (ARIDE) or are a certified Drug Recognition Expert.

- Exceptions to any impaired driving HVE requirements must be submitted to the WTSC HVE Program Manager for approval.
- 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/mobilization. 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, it is expected that mentees will participate in at least one 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. WTSC will provide a model DUI Mentoring policy if requested.
 - Funding will pay for overtime for the mentor officer and the mentee officer.
- This funding can be used to conduct premises checks (such as the Home Safe Bar Program) 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 must be done through the HVE Mobilization Plan. This plan must be received by WTSC at least 2 weeks 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 establishment (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 should 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 to include a threat matrix on warrant suspects, most current address information obtained through the court or local record management system and current Department of Licensing or booking photos on warrant suspects available.

Distracted Driving HVE Events:

- 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 ([RCW 46.61.672](#)).

- 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. This approach has shown to best identify distracted driving violations.
- Spotter Requirement Explained: A distracted driving HVE patrol must consist of at least three officers – one spotter and at least two officers responding to violations.
- This funding can be expended outside of the national campaigns, but the funds must only be used for distracted driving HVE enforcement.

Motorcycle Safety HVE Events:

- Patrols must take place Friday, Saturday, or Sunday during the It’s a Fine Line campaign, however the local Traffic Safety Task Force can request to conduct patrols during other days in the week if data shows the need for this. These requests must be sent to the WTSC Program Manager managing the Motorcycle Safety program prior to the enforcement dates.
- During special events, patrols should be scheduled during the dates of the event and could start one day before the official event start date and end one day after the official event end date.

3.1. MILESTONES AND DELIVERABLES

Mobilization

U Drive. U Text. U Pay.
 DUI Holiday Patrols
 On the Road, Off the Phone
 It’s a Fine Line
 DUI Drive Sober or Get Pulled Over

Dates

October 5 – 12
 December 11 - January 2
 April 1 - 19
 July 11 - 27
 August 20 - September 6

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 dollar total from amounts listed below. Payment for satisfactory performance of the overtime work shall not exceed this amount unless the WTSC and SUB-RECIPIENT mutually agree to a higher amount in a written Amendment to this Agreement executed by both the WTSC and SUB-RECIPIENT. Comp-time is not considered overtime and will not be approved for payment. All law enforcement agencies who are active members of the Region 10 traffic safety task force with a fully executed grant agreement are eligible to participate in this grant.

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.

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

3.2.3. Funding alterations are permitted as follows: Upon agreement by the regional TZM and all other parties impacted by a proposed budget alteration, the allocation amounts may be increased or decreased without amending this agreement. HVE grant funds should be managed collaboratively by the SUB-RECIPIENT and the TZM.

These alterations must be requested through email communication among all involved parties, including the TZM, and the WTSC Fiscal Analyst. This communication shall include an HVE Allocation Adjustment form, which details the funding alterations.

Funds within the same HVE campaign budget category only, can be increased and decreased across parties, so long as the modified total does not exceed the regional total allocation per funding category.

3.2.4. These funds, designated for salaries and benefits, are intended to pay for the hourly overtime costs and proportional amounts of fringe benefits of commissioned staff pursuing the activities described in the statement of work. These funds may not be used for any other purpose for example any work required to maintain a law enforcement commission including recertification trainings like firearm qualification.

3.2.5. Dispatch: WTSC will reimburse communications officers/dispatch personnel for work on this project providing SUB-RECIPIENT has received prior approval from their region's TZM. This activity must be overtime and only the expenses listed in section 3.2 and its subsections will be reimbursed.

3.2.6. Transport Officers: WTSC will reimburse transport officers for their work on this project providing SUB-RECIPIENT has received approval from their regions TZM. The TZM will work with the regional LEL to determine if need is warranted for the type of HVE activity. This activity must be overtime and only the expenses listed in section 3.2 and its subsections will be reimbursed.

3.2.7. The law enforcement agency involved will not schedule individual officer overtime shifts for longer than eight hours. WTSC understands there may be instances when more than eight hours are billed due to DUI processing or other reasons and an explanation should be provided on the WEMS Officer Activity Log.

3.2.8. The law enforcement agency involved will ensure that any reserve officer for whom reimbursement is claimed has exceeded his/her normal weekly working hours when participating in an emphasis patrol and is authorized to be paid at the amount requested. Reserve officers may only be paid at the normal hourly rate and not at the 150 percent overtime rate.

3.3. SUMMARY OF PROJECT COSTS

The WTSC has awarded **\$102,000.00** to the **Region 10 Traffic Safety Task Force** for the purpose of conducting coordinated overtime HVE activities. 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:

EMPHASIS PATROL

Impaired Driving Patrols (Section 402, CFDA 20.600)	\$60,000.00
Distracted Driving Patrols (Section 402, CFDA 20.600)	\$27,000.00
Motorcycle Safety (164 Funds, CFDA 20.608)	\$15,000.00

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. ACTIVITY REPORTS

The SUB-RECIPIENT agrees to have all personnel who work HVE patrols submit a WEMS Officer Activity Log within 24 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. Supervisor review and accuracy certification will also be done in WEMS.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. BILLING PROCEDURE

All invoices for reimbursement of HVE activities will be done using the WTSC's grant management system, WEMS. WEMS Officer Activity logs will be attached to invoices, directly linking the cost of the activity to the invoice. Because the activity, approval, and invoicing are all done within WEMS, no back up documentation is required in most cases.

Once submitted by the SUB-RECIPIENT, invoices are routed to the regional TZM for review and approval. The TZM will submit all approved invoices to the WTSC via WEMS within 10 days of receipt.

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, 2021, **must be received by WTSC no later than August 10, 2021**. All invoices for goods received or services performed between July 1, 2021 and September 30, 2021, **must be received by WTSC no later than November 15, 2021**.

11. 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.

12. COST PRINCIPLES

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

13. 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.

14. DISPUTES

14.1. 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.

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

15. GOVERNANCE

15.1. 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.

15.2. 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:

15.2.1. Applicable federal and state statutes and rules

15.2.2. Terms and Conditions of this Agreement

15.2.3. Any Amendment executed under this Agreement

15.2.4. Any SOW executed under this Agreement

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

16. 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.

17. INDEMNIFICATION

17.1. 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.

17.2. 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.

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

18. 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.

19. INSURANCE COVERAGE

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

19.2. 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.

20. 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.

21. RECORDS MAINTENANCE

21.1. 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.

21.2. 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.

22. 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.

23. RIGHTS IN DATA

23.1. 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.

23.2. 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.

23.3. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. TREATMENT OF ASSETS

30.1. 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.

30.2. 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.

30.3. 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.

30.4. 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.

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

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

31. 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):

32. 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.

33. DEBARMENT AND SUSPENSION

Instructions for Lower Tier Certification

33.1. 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.

33.2. 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.

33.3. 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.

33.4. 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.

33.5. 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.

33.6. 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.

33.7. 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.

33.8. 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.

33.9. 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

33.10. 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.

33.11. 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.

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

34.1. The SUB-RECIPIENT shall:

34.1.1. 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.

34.1.2. 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.

34.1.3. 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.

34.1.4. 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.

34.1.5. 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.

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

35. 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.

36. FEDERAL LOBBYING

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

36.1.1. 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.

36.1.2. 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.

36.1.3. 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.

36.2. 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.

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

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

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

37.1.2. 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.

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

37.1.4. 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.

37.1.5. 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.

38. 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.

39. 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.

40. 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.

41. 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:

The Contact for the SUB-RECIPIENT is:	The Target Zero Manager for Region 10 is:	The Contact for WTSC is:
Sergeant Jeff Franzen jfranzen@marysvillewa.gov 360-363-8300	Stacey McShane Region 10 Target Zero Manager target.zero@snoco.org 425-388-3817	Manny Gonzalez WTSC Program Manager mgonzalez@wtsc.wa.gov 360-725-9888

42. 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.

<p>Signature</p> <p>Jon Nehring</p> <p>Printed Name</p> <p>Mayor</p> <p>Title</p> <p>Date</p>	<p>WASHINGTON TRAFFIC SAFETY COMMISSION</p> <p>Signature</p> <p>Printed Name</p> <p>Title</p> <p>Date</p>
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