



CITY COUNCIL

REGULAR MEETING AGENDA

Remote Meeting

April 20, 2021 – 6:30 p.m.

Notice: Pursuant to Governor Inslee's Proclamation 20-28, all in-person meetings are prohibited until further notice. The Mayor and Council encourage you use one of the following ways to participate in the meeting:

- **Watch** the meeting live via [Federal Way YouTube Channel](#)
- **Call in** and listen to the live meeting: (888) 788-0099 or 253-215-8782
- **Public Comment** may be submitted via email [here](#), or sign up to provide live comments [here](#)
- **Zoom meeting code:** 685 690 722 and **passcode:** 131162

1. CALL MEETING TO ORDER

2. PLEDGE OF ALLIGIANCE

3. PRESENTATIONS

- Mayor's Issues and Report
 - COVID-19 Update – Emergency Manager Ray Gross
 - Opening Day of the Federal Way Farmers Market – May 1, 2021 at 10:00 a.m.
 - Black Community Quarterly Meeting on April 21 at 6:30 p.m. via Zoom
 - Business Resiliency Task Force Meeting on April 22 at noon via Zoom
 - Community Continuity Task Force on April 23 at noon via Zoom
- Financial Update – Ade Ariwoola, Finance Director
- Council Committee Reports
 - Parks/Recreation/Human Services/Public Safety Committee (PRHSPS)
 - Land Use/Transportation Committee (LUTC)
 - Finance, Economic Development Regional Affairs Committee (FEDRAC)
 - Lodging Tax Advisory Committee (LTAC)
 - Regional Committees Report (PIC)
 - Council President Report

4. PUBLIC COMMENT

Please email comments to COUNCIL@cityoffederalway.com or complete a citizen comment request form ([found here](#)) prior to the meeting, to provide comments via telephone during the meeting. All comments are limited to 3 minutes each.

The City Council may add items and take action on items not listed on the agenda.
Regular Meetings are recorded and televised live on Government Access Channel 21.
To view Council Meetings online please visit www.cityoffederalway.com.

5. CONSENT AGENDA

Items listed below have been previously reviewed in their entirety by a Council Committee of three members and brought before full Council for approval; all items are enacted by one motion. Individual items may be removed by a Councilmember for separate discussion and subsequent motion.

- a. [Minutes: April 6, 2021 Regular and Special Meetings](#)
- b. [2021 Storm Drain CCTV Inspection and Assessment – Bid Award](#)
- c. [WSDOT Operations and Maintenance Agreement for Adaptive Traffic Control System](#)
- d. [Arts Commission 2021 Contract for Services](#)
- e. [2021-2022 Human Services Commission Work Plan](#)
- f. [Interlocal Agreement with Public Health of Seattle King County for the South King County Mobile Medical Program](#)
- g. [Edward Byrne Memorial Justice Assistance Grant \(JAG\) Program for Fiscal Year \(FY\) 2020](#)
- h. [Agreement between the Washington Traffic Safety Commission \(WTSC\) and the Federal Way Police Department to Provide Grant Funding for Traffic Enforcement](#)
- i. [Lakehaven Utility District Water Main Easement – Lakota Park](#)

6. ORDINANCES

First Reading:

- a. [Council Bill #801/Ordinance Relating to Misdemeanor Possession of Controlled Substances; Adding New Section 6.1.130 to Chapter 6.10 FWRC](#)
 - Staff Report: Ryan Call, City Attorney
 - Public Comments – 3 minutes each
 - Council Discussion/Questions

7. COUNCIL REPORTS

8. EXECUTIVE SESSION

- Potential Litigation pursuant to RCW 42.30.110(1)(i)

9. ADJOURNMENT

The City Council may add items and take action on items not listed on the agenda.

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COUNCIL MEETING DATE: April 20, 2021

ITEM #: 5a

**CITY OF FEDERAL WAY
CITY COUNCIL
AGENDA BILL**

SUBJECT: CITY COUNCIL MEETING MINUTES

POLICY QUESTION: Should the City Council approve the draft minutes for the April 6, 2021 Regular and Special Meetings?

COMMITTEE: N/A

MEETING DATE: N/A

CATEGORY:

☒ Consent

☐ Ordinance

☐ Public Hearing

☐ City Council Business

☐ Resolution

☐ Other

STAFF REPORT BY: Stephanie Courtney, City Clerk

DEPT: Mayor's Office

Attachments:

Draft minutes for the April 6, 2021 Regular and Special Meetings

Options Considered:

1. Approve the minutes as presented.
2. Amend the minutes as necessary.

MAYOR'S RECOMMENDATION: N/A

MAYOR APPROVAL:

N/A

Committee
Initial/Date

N/A

Council
Initial/Date

CITY CLERK APPROVAL:

Jem 04/12/2021
Initial/Date

COMMITTEE RECOMMENDATION: N/A

N/A

Committee Chair

N/A

Committee Member

N/A

Committee Member

PROPOSED COUNCIL MOTION: "I move approval of the minutes as presented."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

☐ APPROVED

☐ DENIED

☐ TABLED/DEFERRED/NO ACTION

☐ MOVED TO SECOND READING (ordinances only)

REVISED - 4/2019

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #

RESOLUTION #



CITY OF
Federal Way
CITY COUNCIL
REGULAR MEETING MINUTES
Remote Meeting
April 6, 2021 – 6:30 p.m.

DRAFT

1. CALL MEETING TO ORDER

Mayor Ferrell called the meeting held remotely to order at 6:32 p.m.

City officials in attendance: Mayor Jim Ferrell, Council President Susan Honda, Councilmember Lydia Assefa-Dawson, Councilmember Greg Baruso, Councilmember Hoang Tran, Councilmember Leandra Craft, Councilmember Martin Moore, and Councilmember Linda Kochmar.

City staff in attendance: City Attorney Ryan Call and City Clerk Stephanie Courtney.

2. PLEDGE OF ALLIGIANCE

Mayor Ferrell led the flag salute.

3. MAYOR PRESENTS KEYS TO THE CITY TO ESSENTIAL WORKERS AND FIRST RESPONDERS

Mayor Ferrell introduced the recipients of the Key to the City sharing the text from the plaques: On behalf of a grateful community we honor your selfless sacrifice and service. We are inspired by all you have done to help the sick, needy, friend, neighbors, and our families under the most trying circumstances of our time. You are all heroes and we honor and appreciate you.

- **Federal Way Healthcare Workers**

Valarie Howard, ICU Monitor Technician at Swedish, thanked the Mayor and Council for the honor expressing her amazement to be the one accepting the award on behalf of all healthcare workers.

Gloria Brigham, Director of Nursing Practice with Washington State Nurses Association (WSNA), noted nurses have been on the frontlines since before the pandemic was recognized as such. She shared her pride at being able to represent the front-line nurses and express gratitude on their behalf.

Dino Johnson, COO CHI Franciscan thanked the Mayor and Council for their ongoing support and recognition of St. Francis.

- Federal Way Grocery Workers

Christopher Navarrette, UFCW 21, noted the grocery workers have been going to work every day putting both themselves and their families at risk and he appreciates the recognition. He believes this award is deserved by every grocery worker.

- Federal Way Police Department

Deputy Chief Kyle Sumpter expressed gratitude for the recognition of all police officers and police department employees. He shares it has been and remains their pleasure to serve this community; it remains their commitment to show up and serve every day.

- South King Fire & Rescue

Fire Station 62 Crew and Chief Pennington thanked Mayor Ferrell for the for incredible honor and the ongoing partnership they have with the city.

4. PRESENTATIONS

- a. Proclamation: Condemning and Combating Racism, Xenophobia and Intolerance Against Asian American and Pacific Islanders

Council President Honda and all councilmember read portions of the proclamation presenting it virtually to Korean Consul General Kwon as well as Daniel Kim and Yina Yoon from the Federal Way Korean American Association.

Korean Consul General Kwon expressed his pleasure to be in attendance and see democracy working in Federal Way. While he is not an immigrant but instead a diplomat he feels close to the city and appreciates the stance the city has taken against any and all discrimination.

Mr. Kim shared the pride the Korean Community takes in leading the City of Federal Way together with the Mayor and Council. He expressed deep gratitude for proclamation against racism.

Council thanked and acknowledged the importance of showing solidarity in our community, especially as we combat racism and hate. They noted our diverse community and welcome all.

- b. Proclamation: Sexual Assault Awareness Month – April 2021

Council President Honda read and virtually presented the proclamation to Paola Fernandez, King County Sexual Assault Resource Center Case Manager. She accepted the proclamation and spoke of the victims and the hard work of many in the community to support those in need of help.

- c. Mayor's Emerging Issues and Report

- Covid-19 Update

Emergency Manager Ray Gross provided an update noting the upcoming Monday

will be the first state level assessment. If a county misses a mark the state will make the determination to move back to Phase 2 on the following Friday. Current numbers indicate Federal Way is doing okay

- American Rescue Plan Act of 2021

Economic Development Director Tim Johnson provided an update on the American Rescue Plan Act noting it was signed on March 11 and the Federal Government has sixty days to provide guidance to jurisdictions.

- Report on the Drive-thru Diaper Donation Drive (3/27)

Mayor Ferrell announced the 7th Annual March of Diapers being run by Cheryl Hurst. She has been working with her husband and Shelley Pauls along with other volunteers and has collected over 250,000 diapers and 136,000 wipes. These donations benefit 15 non-profit organizations including the Multi-Service Center, Federal Way Day Center, and FUSION Transitional Housing.

- State and Federal Legislative Update

Communications and Governmental Affairs Coordinator Steve McNey and Federal Lobbyist Rick Agnew reviewed the current legislative session reporting on items that have been awarded to the city. It was noted funds were not allocated for body cameras or safe city camera but there are ongoing conversations with the legislators.

Mr. Agnew spoke about the Biden Bill which is currently a proposal. He is working with staff and legislators to understand what it means in order to be ready to submit requests immediately. They also discussed the flow of the congressional calendar

Council President Honda and Council thanked them for their ongoing efforts and inquired as to why the body cameras was not fulfilled. It was noted due to COVID, there are gaps that normally do not need to be filled and money that would typically be awarded is being funneled there instead. There were also questions regarding rental assistance, senior services, and other human service projects. Mr. Agnew noted there is money for these services, but often funds for families and the elderly will not go straight to the city but rather through social services and city partners.

- Diversity, Equity and Inclusion Coordinator Update

Mayor Ferrell announced Erica Azcueta has been hired as the City's first Diversity, Equity, and Inclusion Coordinator and will start Monday, April 12.

- African American/Black Community Quarterly Meeting

This meeting will take place on April 21 at 6:30 p.m. via Zoom and Mayor Ferrell invited participation.

- Update on State of Washington v. Blake, Supreme Court Ruling

Mayor Ferrell provided a synopsis of State of Washington versus Blake Supreme Court Ruling and the ramifications of that decision. He explained this ruling declared

the state drug possession as unconstitutional specifically siting that intent was not required in the possession portion of existing law.

Governments at all levels and prosecutors across the state are working on this as possession of a controlled substance is not prosecutable at this time. There are a few bills being worked on, one of which simply adds "knowingly" before possession but it is not moving forward. A bill (SB 5476) introduced by Senator Mankra Dhingra is gaining momentum. This bill would criminalize possession of amounts larger than personal use while also legalizing personal amounts.

He noted there is an ordinance being presented at the upcoming Parks, Recreation, Human Services, and Public Safety Committee regarding controlled substances and it is scheduled to be on the April 20 City Council Meeting agenda. The intent of this ordinance is to create local law prohibiting the knowing possession of a controlled substance as defined by state law.

Council spoke regarding the fact it is unknown if the Washington State Supreme Court decision will apply retroactively and the need to reach out to legislators regarding their questions and concerns.

- Study Session April 20

Mayor Ferrell announced the next Special City Council Meeting will be a study session regarding hazard pay. It is scheduled to begin at 5:00 p.m. on April 20.

d. Council Committee Reports

Parks/Recreation/Human Services/Public Safety Committee (PRHSPS): Chair Kochmar reported the next PRHSPS Committee meeting is scheduled for April 13 at 5:00 p.m. and reviewed the agenda.

Land Use/Transportation Committee (LUTC): Chair Baruso reported their previous meeting resulted in two items being forwarded to the April 20 meeting for consent. The next committee meeting is scheduled for May 3 at 5:00 p.m. and will be via Zoom.

Finance, Economic Development Regional Affairs Committee (FEDRAC): Chair Tran met on March 23 noting the consent agenda items for this meeting were forwarded from FEDRAC for final council approval.

Lodging Tax Advisory Committee (LTAC): Chair Assefa-Dawson reported a vacancy on LTAC for a hotelier/business collecting lodging tax. to be on the committee. She anticipates the April 14 meeting may be cancelled.

Regional Committees Report (PIC): Councilmember Moore announced the next meeting will be April 14 at 7:00 p.m.

Council President Report: Council President Honda encouraged people to follow the Council Facebook page to stay apprised of current issues. She explained the topic of the Special Meeting held before this meeting regarding the DEIS for the OMF-South and recommended the public become involved and share their voice in opposition of locating this facility in Federal Way.

At 8:33 p.m. Mayor Ferrell announced the Council would take a brief recess for approximately 10 minutes. At 8:45 p.m. Mayor Ferrell reconvened the meeting.

5. PUBLIC COMMENT

Thea Oliphant-Wells shared her personal history and her support of the needle exchange program.

Grace Labrano spoke on behalf of several individuals in opposition of the needle exchange program.

Jen Gallagher, a 19-year resident, shared her concerns regarding violence and crime in Federal Way.

Craig Patrick spoke against the needle exchange program and shared his opinion that this puts the general public at risk.

Heather Venegas, the Director of the King County Recovery Coalition, spoke in support of needle exchange programs.

Anna Patrick, spoke in opposition of the needle exchange program. Ms. Patrick voiced that she would like King county to focus more on recovery and prevention and less on "safe drug use".

Matt Dillion spoke in support of needle exchange programs sharing his personal story.

Marcos Sauri shared his support for the needle exchange program.

Tony Radovich expressed his support of the needle exchange program and how it helped connect him to additional helpful services.

Written comment from Jeannie VanVleet read into the record by City Clerk Stephanie Courtney in opposition to any needle exchange program in Federal Way.

Written comment from Tracy Roberts read into the record by City Clerk Stephanie Courtney in favor of needle exchange/harm reduction services.

Written comment from Lowell Poisson read into the record by City Clerk Stephanie Courtney in favor of needle exchange

Written comment from Betty Taylor read into the record by City Clerk Stephanie Courtney requesting a United States Postal Service approved abbreviation to Pete von Reichbauer Way.

Written comment from Nolan Cho read into the record by City Clerk Stephanie Courtney addressing the recent increase of anti-Asian hate crimes happening in our area.

Ken Blevens spoke noting that most people speaking are not from Federal Way and that he believes these people are not tax paying citizens and they do not care about the City.

The following individuals signed up for public comment but were not in attendance/did not unmute to provide comments: Roger Flygare, Abel Carrillo, Debra McManus, Steve Olson, and Cortney Freeman.

6. CONSENT AGENDA

- a. Minutes: March 16, 2021 Regular and Special Meetings
- b. Monthly Financial Report – February 2021
- c. Vouchers – February 2021
- d. Federal Way Community Center Hot Water Tank Replacement RFB
- e. King County COVID-19 Pandemic Funding for PAEC

COUNCIL PRESIDENT HONDA MOVED APPROVAL OF ITEMS A THROUGH E ON THE CONSENT AGENDA; SECOND BY COUNCILMEMBER MOORE. The motion passed unanimously as follows:

<i>Council President Honda</i>	<i>yes</i>	<i>Councilmember Craft</i>	<i>yes</i>
<i>Councilmember Assefa-Dawson</i>	<i>yes</i>	<i>Councilmember Moore</i>	<i>yes</i>
<i>Councilmember Baruso</i>	<i>yes</i>	<i>Councilmember Kochmar</i>	<i>yes</i>
<i>Councilmember Tran</i>	<i>yes</i>		

7. COUNCIL BUSINESS

- a. Resolution: Opposition to the Seattle-King County Public Health Needle Give-Away and Exchange/South County Outreach Referral and Exchange (SCORE) Program/**APPROVED RESO #21-807**

Steve McNey, Communications and Government Affairs Coordinator, shared the history of the needle exchange issue coming to the attention of the Mayor and Council. As of April 1, Mayor Ferrell spoke with Director Patty Hayes from Seattle/King County Public Health and requested the service be paused within Federal Way to allow further discussion to determine if there is public support for this service. He also noted this resolution is to confirm this pause in order to allow time for a formal decision to be made.

Mayor Ferrell and Council President Honda have created a committee of individuals with various areas of expertise as well as public to engage in conversation and determine if this is the is an appropriate service to provide and if not then what could be. Mayor Ferrell announced Council President Honda will chair this committee and the following individuals will be committee members

- Former Mayor Jeanne Burbidge
- Former Councilmember Diana Noble-Gulliford
- Anna Patrick
- Nicole Hoffman
- Cynthia Ricks-Maccotan
- Andrew Dwayne
- Representative from CHI Franciscan
- Fire Marshal & Assistant Fire Chief Gordie Goodsell (SKFR)
- Police Commander Casey Jones (COFW)
- Seattle-King County Public Health Representative

Councilmember Baruso requested the new Diversity, Equity and Inclusion Coordinator be included in this committee; Mayor Ferrell indicated that it would be appropriate for her to attend as a staff member, but she will not be considered a member of the committee. Councilmember Craft asked if there is a representative of the population with lived experience and Mayor Ferrell confirmed that fact.

COUNCIL PRESIDENT HONDA MOVED TO SUSPEND COUNCIL RULES TO EXTEND THE MEETING PAST 10:00 P.M.; COUNCILMEMBER MOORE SECOND. The motion passed unanimously.

<i>Council President Honda</i>	<i>yes</i>	<i>Councilmember Craft</i>	<i>yes</i>
<i>Councilmember Assefa-Dawson</i>	<i>yes</i>	<i>Councilmember Moore</i>	<i>yes</i>
<i>Councilmember Baruso</i>	<i>yes</i>	<i>Councilmember Kochmar</i>	<i>yes</i>
<i>Councilmember Tran</i>	<i>yes</i>		

Council continued to discuss the issue noting their hope for both sides to understand one another and find a solution that will work for our city, make the city a better place, and help those in need of help.

Discussion circled around timing and it was determined a time period would be included in the resolution. Mayor Ferrell noted in his discussion with Director Hayes there was the intention of moving forward with deliberate speed which he anticipates meaning results in less than three months.

COUNCILMEMBER KOCHMAR MOVED APPROVAL OF THE PROPOSED RESOLUTION; SECOND BY COUNCILMEMBER BARUSO.

Councilmember Moore moved to modify the proposed resolution to include the committee provide an update or recommendation to the council in two months or sooner. Councilmember Kochmar agreed and suggested it be incorporated as a friendly amendment

Council discussed the proposed timeline and discussed what could be anticipated in that timeframe. It was determined that at least a report could be provided within the two months. Mayor Ferrell asked if there was a general consensus

Mr. McNey reviewed an update to the resolution adding the following language as the last line of Section 3, "We request that a report on this issue be provided to the Council no later than June 1, 2021."

Main motion as currently constituted: **APPROVAL OF THE PROPOSED RESOLUTION WITH ADDED DIRECTION TO PROVIDE A REPORT TO COUNCIL NO LATER THAN JUNE 1, 2021.** The motion passed unanimously as follows:

<i>Council President Honda</i>	<i>yes</i>	<i>Councilmember Craft</i>	<i>yes</i>
<i>Councilmember Assefa-Dawson</i>	<i>yes</i>	<i>Councilmember Moore</i>	<i>yes</i>
<i>Councilmember Baruso</i>	<i>yes</i>	<i>Councilmember Kochmar</i>	<i>yes</i>
<i>Councilmember Tran</i>	<i>yes</i>		

b. Confirmation of Independent Salary Commission Appointments

COUNCIL PRESIDENT HONDA MOVED TO CONFIRM THE MAYOR'S APOINTMENTS TO THE INDEPENDENT SALARY COMMISSION AS FOLLOWS: SHAQUINA DAVIS TO VOTING POSITION #1 WITH A TERM EXPIRING FEBRUARY 28, 2024 AND KENNETH PRATT TO VOTING POSITION #5 WITH A TERM EXPIRING FEBRUARY 28, 2025; SECOND BY COUNCILMEMBER BARUSO. The motion passed unanimously as follows:

<i>Council President Honda</i>	<i>yes</i>	<i>Councilmember Craft</i>	<i>yes</i>
<i>Councilmember Assefa-Dawson</i>	<i>yes</i>	<i>Councilmember Moore</i>	<i>yes</i>
<i>Councilmember Baruso</i>	<i>yes</i>	<i>Councilmember Kochmar</i>	<i>yes</i>
<i>Councilmember Tran</i>	<i>yes</i>		

- c. Council Preferred Alternative Site and authorization to submit a letter to Sound Transit regarding Operations and Maintenance Facility (OMF-South)

Public Works Director EJ Walsh reviewed the policy question and noted the one-word change made to the letter after the Special Meeting.

Council President Honda noted she wants to discuss and address the fact Sound Transit modified the proposed sites to much larger without any input from the City or public. She would like to get together with Mayor Ferrell and staff to see what can be done.

Mr. Walsh read the draft letter with the changed word prior to voting on this item.

COUNCILMEMBER BARUSO MOVED APPROVAL THE PROPOSED LETTER TO THE SOUND TRANSIT BOARD REGARDING THE LOCATION OF THE PROPOSED OPERATIONS AND MAINTENANCE FACILITY-SOUTH; SECOND BY COUNCILMEMBER MOORE. The motion passed unanimously as follows:

<i>Council President Honda</i>	<i>yes</i>	<i>Councilmember Craft</i>	<i>yes</i>
<i>Councilmember Assefa-Dawson</i>	<i>yes</i>	<i>Councilmember Moore</i>	<i>yes</i>
<i>Councilmember Baruso</i>	<i>yes</i>	<i>Councilmember Kochmar</i>	<i>yes</i>
<i>Councilmember Tran</i>	<i>yes</i>		

8. ORDINANCES

Second Reading/Enactment

- a. Council Bill #800/ Adoption of 2018 State Mandated Building Codes
AN ORDINANCE OF THE CITY OF FEDERAL WAY, WASHINGTON, RELATING TO THE ADOPTION OF THE WASHINGTON STATE BUILDING CODE AND RELATED MATTERS; AMENDING FWRC 13.16.020; 13.16.030; 13.20.050; 13.20.090; 13.22.020; 13.22.030; 13.26.020; 13.26.030; 13.28.020; 13.28.030; 13.31.020; 13.31.030; 13.31.040; 13.34.020; 13.34.030; 13.38.020; 13.41.020; 13.43.020; AND 13.43.030; REPEALING FWRC 13.20.010; 13.20.020; 13.20.030; 13.20.040; 13.20.060; AND 13.20.070. (AMENDING ORDINANCE NOS. 01-389, 04-465, 07-563, 09-5952, 10-665, 13-743, 14-772, 15-793, AND 17-830)

City Clerk Stephanie Courtney read the ordinance title into the record.

COUNCILMEMBER BARUSO MOVED APPROVAL OF THE PROPOSED ORDINANCE; SECOND BY COUNCILMEMBER MOORE. The motion passed unanimously as follows:

<i>Council President Honda</i>	<i>yes</i>	<i>Councilmember Craft</i>	<i>yes</i>
<i>Councilmember Assefa-Dawson</i>	<i>yes</i>	<i>Councilmember Moore</i>	<i>yes</i>
<i>Councilmember Baruso</i>	<i>yes</i>	<i>Councilmember Kochmar</i>	<i>yes</i>
<i>Councilmember Tran</i>	<i>yes</i>		

9. COUNCIL REPORTS

Councilmember Assefa-Dawson indicated she had no report and expressed her excitement for the Diversity Equity and Inclusion (DEI) Coordinator to start Monday.

Councilmember Baruso echoed the eagerness regarding the DEI Coordinator and looks forward to working with her. He helped with the Diaper Drive put on by Cheryl Hurst with Council President Honda and Councilmember Kochmar. They also attended the Funding for Communities of Color at Into His Chambers Ministries; this is a group of churches and nonprofits that have been feeding

and clothing citizens of Federal Way before and during COVID. He concluded his report congratulating Councilmember Moore on his son.

Councilmember Tran provided no report.

Councilmember Craft thanked everyone for submitting public comment on the needle exchange issue. She is aware it is a hot topic and she has personal connections to it as well. She shared the SCORE program provides this service in all of King County, so even though there is a pause in Federal Way the service is still available. She also congratulated Councilmember Moore.

Councilmember Moore shared his thoughts and joy on becoming a father noting when you have a baby everything changes. He agreed with the comments made on the needle exchange program and realizes how sensitive this topic is and anticipates ongoing conversations.

Councilmember Kochmar provided no report.

Council President Honda reminded both Council and the public to submit comments to Sound Transit regarding the OMF-South DEIS before April 19. She shared it is the 50th anniversary of the Weyerhaeuser Headquarter Building being constructed. She also noted May is Asian-American Month and she hope to work with the Diversity Commission to find a way celebrate.

10.ADJOURNMENT

There being nothing further on the agenda; the regular meeting was adjourned at 10:59 p.m.

Attest:

Stephanie Courtney
City Clerk

Approved by Council:



DRAFT

**CITY COUNCIL
SPECIAL MEETING MINUTES
Remote Meeting
April 6, 2021 – 5:00 p.m.**

1. CALL MEETING TO ORDER

Mayor Ferrell called the meeting to order at 5:02 p.m.

City officials in attendance: Mayor Jim Ferrell, Council President Susan Honda, Councilmember Lydia Assefa-Dawson, Councilmember Greg Baruso, Councilmember Hoang Tran, Councilmember Leandra Craft, Councilmember Martin Moore, and Councilmember Linda Kochmar.

City staff in attendance: City Attorney Ryan Call and City Clerk Stephanie Courtney.

2. PLEDGE OF ALLIGIANCE

Mayor Ferrell led the flag salute.

**3. STUDY SESSION: REVIEW OF THE DEIS FOR THE SOUND TRANSIT
OPERATIONS & MAINTENANCE FACILITY (OMF-SOUTH)**

a. Summary of Impact Findings regarding OMF sites

- Staff Introduction: Ryan Medlen, City Liaison to Sound Transit Consultant and Review and Report from FCS

Ryan Medlen, City Liaison to Sound Transit, introduced consultants from the FCS Group: Tim Wood, Project Consultant and Gordon Wilson, Senior Program Manager. Mr. Medlen indicated the city contracted with FCS Group when it became apparent there would be two potential sites for the OFM-South within the City of Federal Way.

Mr. Wilson outlined of the purpose of the study was to analyze the potential impact of the two Federal Way sites: the 53-acre Christian Faith Center (CFC) site and 50-acre 344th Street site. He noted Sound Transit has changed the configuration of the 344th Site after their analysis which may change the impacts, but not in a significant manner.

He overviewed impacts to city revenues (property tax, sales tax, state shared revenue, and surface water fees) and other impacts (employment impacts and developable lands). He highlighted the 344th site currently generates \$255,022 for city while the CFC generates \$118,317. Total government services revenue impact for CFC site is

\$161,885 and 344th is \$519,179 for all revenue impacts including the fire and school districts.

He concluded by noting the 344th site currently hosts 320 jobs and is 7.25 acres consisting of six vacant properties. The CFC site hosts 228 jobs and is 22.85 acres with four vacant properties.

b. Summary of Technical Comments prepared by City Staff

- Staff presentation

Ryan Medlen reported staff from multiple City departments are reviewing the reports and conceptual designs and will provide a technical review letter to Sound Transit before the close of the Draft Environmental Impact Statement (DEIS) comment period. Comments and concerns from staff were grouped into three categories: procedural concerns, transportation impacts, land use impacts, and economic impacts.

Councilmembers thanked staff and the consultants for their presentation and asked questions regarding, revenue generation related to utility taxes and Proposition 1 taxes, cost analysis, and impact to the Hylebos Watershed coupled with the proposed development on the former-Weyerhaeuser property.

Mr. Wilson indicated the utility tax was considered but analysis concluded there would not be a significant change. Mr. Medlen addressed questions regarding the mainline construction costs not being included in the Federal Way site estimates versus the Midway site estimate. He noted either option will result in impacts to the Hylebos Watershed including relocation much of which will fall under the Army Corp of Engineers. CFC has more land affected since there is a second leg which will also be impacted. He concluded by stating additional analysis of stormwater and surface water impacts will need to be completed to determine if the proposed OFM-South and former Weyerhaeuser sites are connected at that level.

c. City Council Discussion and Review of a Draft Letter to Sound Transit (*Council Business Item 7c on the April 6, 2021 regular meeting agenda*)

Public Works Director EJ Walsh reviewed the draft letter which was to be considered by Council during the Regular City Council Meeting following this meeting. The purpose of this letter is to provide the Council preferred alternative to Sound Transit; a subsequent technical review letter will be submitted by staff at a later date.

Mr. Walsh read the letter which stated the preferred alternative should be the Midway Landfill and the Federal Way sites removed from further review. He asked if there were any questions and/or comments. Councilmember Kochmar asked if the word "overtly" could be replaced with "incorrectly" before submittal. Council reached a consensus for this change to be incorporated into the letter.

Council asked about including their other concerns regarding the process and project in this same letter. Both Director Walsh and Davis suggested this letter remain concise and focused on the preferred alternative noting a separate letter would be more appropriate to address other issues.

4. PUBLIC COMMENT

No public comment was received.

5. ADJOURNMENT

There being nothing further on the agenda; the special meeting was adjourned at 6:07 p.m.

Attest:

Stephanie Courtney
City Clerk

Approved by Council:

CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: 2021 STORM DRAIN CCTV INSPECTION AND ASSESSMENT – BID AWARD

POLICY QUESTION: Should the Council award the 2021 Storm Drain CCTV Inspection and Assessment to the lowest responsive, responsible bidder?

COMMITTEE: Land Use and Transportation Committee

MEETING DATE: April 5, 2021

CATEGORY:

- | | | |
|--|-------------------------------------|---|
| <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution | <input type="checkbox"/> Other |

STAFF REPORT BY: Kent Smith, P.E. Senior Capital Engineer

DEPT: Public Works

Attachments: Land Use and Transportation Committee memorandum

Options Considered:

1. Award the 2021 Storm Drain CCTV Inspection and Assessment project to AIMS Companies, the lowest responsive, responsible bidder, in the amount of \$281,122.24 and approve a 5% contingency of \$11,055.76 for a total of \$292,178.00 and authorize the Mayor to execute the contract.
2. Reject all bids for the 2021 Storm Drain CCTV Inspection and Assessment project and direct staff to rebid the project and return to Committee for further action.

MAYOR'S RECOMMENDATION: The Mayor recommends forwarding Option 1 to the April 20, 2021 City Council Consent Agenda for approval.

MAYOR APPROVAL:

[Signature] 3/31/21 *[Signature]* 3/31/21
Committee Initial/Date Council Initial/Date

DIRECTOR APPROVAL:

[Signature]
Initial/Date

COMMITTEE RECOMMENDATION: "I move to forward Option 1 to the April 20, 2021 consent agenda for approval."

via teleconference
Committee Chair

via teleconference
Committee Member

via teleconference
Committee Member

PROPOSED COUNCIL MOTION: "I move authorize staff to award the 2021 Storm Drain CCTV Inspection and Assessment project to AIMS Companies, the lowest responsive, responsible bidder in the amount of \$281,122.24 and approve a 5% contingency of \$11,055.76 for a total of \$292,178.00 and authorize the Mayor to execute the contract."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

- ☐ APPROVED
☐ DENIED
☐ TABLED/DEFERRED/NO ACTION
☐ MOVED TO SECOND READING (ordinances only)

REVISED – 11/2019

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #

RESOLUTION #

CITY OF FEDERAL WAY
MEMORANDUM

DATE: April 5, 2021

TO: City Council Members

VIA: Jim Ferrell, Mayor

FROM: EJ Walsh, P.E., Public Works Director
Kent Smith, P.E., Senior Capital Engineer

SUBJECT: 2021 Storm Drain CCTV Inspection and Assessment – Bid Award

Financial Impacts:

This project will be funded through SWM Capital Fund 304. This is for inspection and assessment only. No new costs associated with operations and maintenance are anticipated.

Background Information:

The 2021 CCTV project is a continuation of the 2018 Storm Drain CCTV Inspection and Assessment project to inspect the City's storm drain pipes for damage. The 2018 project inspected a portion of the City with this project serving to inspect the remaining area of the City not included in the 2018 project.

Five bids were received and opened on March 19, 2021 for the 2021 Storm Drain CCTV Inspection and Assessment project. See the attached Bid Tabulation Summary. The lowest responsive, responsible bidder is AIMS Companies with a total bid, on four schedules, of \$401,387.04.

Available Funding:

The available budget for the 2021 Storm Drain CCTV Inspection and Assessment Project is \$328,864 and is funded as follows:

Balance remaining	\$194,864
2022 SWM 304 Fund	\$100,000
Unallocated SWM Transfer	\$ 34,000
Total Available Funding	\$328,864

There is not enough available project funding to award all of the Project schedules. Therefore, staff recommends awarding Schedule A, C and D only of the 2021 Storm Drain Inspection and Assessment project to AIMS Companies, the lowest responsive, responsible, bidder, in the amount of \$281,122.24 and approve a 5% contingency of \$11,055.76 for a total of \$292,178.00 and authorize the Mayor to execute the contract.

City of Federal Way 2021 Storm Drain Inspection and Assessment - BID TABS

ITEM #	ITEM DESCRIPTION	UNIT	PLAN QTY.	BID # 1		BID # 2		BID #3		BID # 4		BID #5	
				Aims Companies		Aqualis		Drain-Pro Inc.		Pro-Vac, LLC		National Power Rodding Corp.	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
	Schedule A												
1	Mobilization	LS	1	\$ 3,500.00	\$ 3,500.00	\$ 100,800.00	\$ 100,800.00	\$ 215.00	\$ 215.00	\$ 21,492.62	\$ 21,492.62	\$ 35,000.00	\$ 35,000.00
2	Project Temporary Traffic Control	LS	1	\$ 13,500.00	\$ 13,500.00	\$ 20,453.50	\$ 20,453.50	\$ 550.00	\$ 550.00	\$ 2,752.50	\$ 2,752.50	\$ 25,000.00	\$ 25,000.00
3	Flaggers	HR	50	\$ 76.50	\$ 3,825.00	\$ 145.00	\$ 7,250.00	\$ 165.15	\$ 8,257.50	\$ 66.06	\$ 3,303.00	\$ 250.00	\$ 12,500.00
4	CCTV Inspection in Local Roadway	LF	95399	\$ 0.50	\$ 47,699.50	\$ 1.76	\$ 167,902.24	\$ 1.15	\$ 109,708.85	\$ 1.21	\$ 115,432.79	\$ 2.50	\$ 238,497.50
5	CCTV Inspection in Collector Roadway	LF	72431	\$ 0.68	\$ 49,253.08	\$ 1.76	\$ 127,478.56	\$ 1.15	\$ 83,295.65	\$ 1.21	\$ 87,641.51	\$ 3.50	\$ 253,508.50
				Total Schedule A	\$ 117,777.58	Total Schedule A	\$ 423,884.30	Total Schedule A	\$ 202,027.00	Total Schedule A	\$ 230,622.42	Total Schedule A	\$ 564,506.00
	Schedule B												
1	Project Temporary Traffic Control	LS	1	\$ 13,500.00	\$ 13,500.00	\$ 14,662.32	\$ 14,662.32	\$ 550.50	\$ 550.50	\$ 2,752.50	\$ 2,752.50	\$ 25,000.00	\$ 25,000.00
2	Flaggers	HR	50	\$ 76.50	\$ 3,825.00	\$ 145.00	\$ 7,250.00	\$ 165.15	\$ 8,257.50	\$ 66.06	\$ 3,303.00	\$ 250.00	\$ 12,500.00
3	CCTV Inspection in Local Roadway	LF	116072	\$ 0.50	\$ 58,036.00	\$ 1.24	\$ 143,929.28	\$ 1.15	\$ 133,482.80	\$ 1.21	\$ 140,447.12	\$ 2.50	\$ 290,180.00
4	CCTV Inspection in Collector Roadway	LF	66035	\$ 0.68	\$ 44,903.80	\$ 1.24	\$ 81,883.40	\$ 1.15	\$ 75,940.25	\$ 1.21	\$ 79,902.35	\$ 3.50	\$ 231,122.50
				Total Schedule B	\$ 120,264.80	Total Schedule B	\$ 247,725.00	Total Schedule B	\$ 218,231.05	Total Schedule B	\$ 226,404.97	Total Schedule B	\$ 558,802.50
	Schedule C												
1	Project Temporary Traffic Control	LS	1	\$ 13,500.00	\$ 13,500.00	\$ 9,453.94	\$ 9,453.94	\$ 550.50	\$ 550.50	\$ 2,752.50	\$ 2,752.50	\$ 25,000.00	\$ 25,000.00
2	Flaggers	HR	50	\$ 76.50	\$ 3,825.00	\$ 145.00	\$ 7,250.00	\$ 165.15	\$ 8,257.50	\$ 66.06	\$ 3,303.00	\$ 250.00	\$ 12,500.00
3	CCTV Inspection in Local Roadway	LF	52822	\$ 0.50	\$ 26,411.00	\$ 1.14	\$ 60,217.08	\$ 1.15	\$ 60,745.30	\$ 1.21	\$ 63,914.62	\$ 2.50	\$ 132,055.00
4	CCTV Inspection in Collector Roadway	LF	62907	\$ 0.68	\$ 42,776.76	\$ 1.14	\$ 71,713.98	\$ 1.15	\$ 72,343.05	\$ 1.21	\$ 76,117.47	\$ 3.50	\$ 220,174.50
				Total Schedule C	\$ 86,512.76	Total Schedule C	\$ 148,635.00	Total Schedule C	\$ 141,896.35	Total Schedule C	\$ 146,087.59	Total Schedule C	\$ 389,729.50
	Schedule D												
1	Project Temporary Traffic Control	LS	1	\$ 13,500.00	\$ 13,500.00	\$ 5,232.70	\$ 5,232.70	\$ 550.50	\$ 550.50	\$ 2,752.50	\$ 2,752.50	\$ 25,000.00	\$ 25,000.00
2	Flaggers	HR	50	\$ 76.50	\$ 3,825.00	\$ 145.00	\$ 7,250.00	\$ 165.15	\$ 8,257.50	\$ 66.06	\$ 3,303.00	\$ 250.00	\$ 12,500.00
3	CCTV Inspection in Local Roadway	LF	65865	\$ 0.50	\$ 32,932.50	\$ 1.14	\$ 75,086.10	\$ 1.15	\$ 75,744.75	\$ 1.21	\$ 79,696.65	\$ 2.50	\$ 164,662.50
4	CCTV Inspection in Collector Roadway	LF	39080	\$ 0.68	\$ 26,574.40	\$ 1.14	\$ 44,551.20	\$ 1.15	\$ 44,942.00	\$ 1.21	\$ 47,286.80	\$ 3.50	\$ 136,780.00
				Total Schedule D	\$ 76,831.90	Total Schedule D	\$ 132,120.00	Total Schedule D	\$ 129,494.75	Total Schedule D	\$ 133,038.95	Total Schedule D	\$ 338,942.50
	SUBTOTAL				\$ 401,387.04		\$ 952,364.30		\$ 691,649.15		\$ 736,153.93		\$ 1,851,980.50
	Total				\$ 401,387.04		\$ 952,364.30		\$ 691,649.15		\$ 736,153.93		\$ 1,851,980.50

Bid Form
Bid Schedule

YES
YES

YES
YES

YES
YES

YES
YES

YES
YES

CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: *WSDOT OPERATIONS AND MAINTENANCE AGREEMENT FOR ADAPTIVE TRAFFIC CONTROL SYSTEM*

POLICY QUESTION: Should City Council approve the operations and maintenance agreement with WSDOT as part of the Adaptive Traffic Control System project?

COMMITTEE: Land Use and Transportation Committee

MEETING DATE: April 5, 2021

CATEGORY:

☒ **Consent**

☐ **Ordinance**

☐ **Public Hearing**

☐ **City Council Business**

☐ **Resolution**

☐ **Other**

STAFF REPORT BY: Rick Perez, P.E, City Traffic Engineer

DEPT: Public Works

Attachments: 1. Staff Report
2. Agreement, including Exhibits A, B, and C

Options Considered:

1. Approve proposed agreement.
2. Do not approved proposed agreement and provide direction to staff.

MAYOR'S RECOMMENDATION: Option 1

MAYOR APPROVAL:

JG 3/31/21
Committee
Initial/Date

JG 3/31/21
Council
Initial/Date

DIRECTOR APPROVAL:

JG 3/31/21
Initial/Date

COMMITTEE RECOMMENDATION: *I move to forward the proposed agreement to the April 20, 2021 consent agenda for approval.*

via teleconference

Greg Baruso, Committee Chair

via teleconference

Martin Moore, Committee Member

via teleconference

Hoang Tran, Committee Member

PROPOSED COUNCIL MOTION: *"I move approval of the proposed agreement."*

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

☐ **APPROVED**

☐ **DENIED**

☐ **TABLED/DEFERRED/NO ACTION**

☐ **MOVED TO SECOND READING** (*ordinances only*)

REVISED – 11/2019

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #

RESOLUTION #

CITY OF FEDERAL WAY M E M O R A N D U M

DATE: April 5, 2021
TO: Land Use & Transportation Committee
VIA: Jim Ferrell, Mayor
FROM: EJ Walsh, P.E., Public Works Director
Rick Perez, P.E., City Traffic Engineer
SUBJECT: WSDOT Operations and Maintenance Agreement for Adaptive Traffic Control System

Financial Impacts:

The cost to the City for the Adaptive Traffic Control System was included within the approved budget under the Public Works Transportation Capital program. In accordance with the approved budget, this item is funded by Congestion Management and Air Quality grants from PSRC in the amount of \$1,600,000, a Highway Safety Improvement Program grant from WSDOT, and \$875,000 in Real Estate Excise Tax and Traffic Impact Fee funds. Upon completion of the Adaptive Traffic Control System, future costs will be approximately \$20,000 per year due to ongoing costs associated with operations and maintenance, which have been included in the Public Works Traffic Maintenance operating budget for 2021-22.

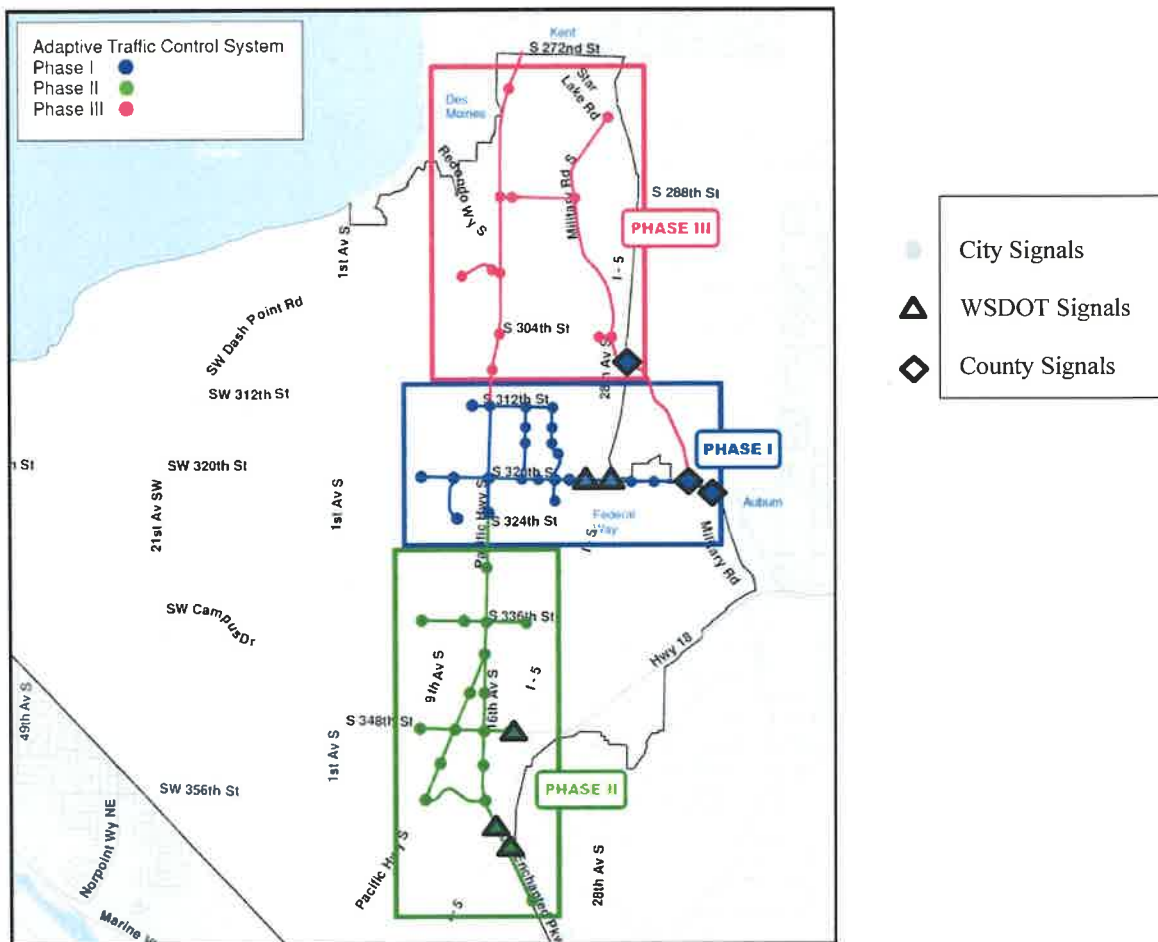
Background Information:

The Adaptive Traffic Control System is a system of traffic signals in which real-time traffic data is used to continuously optimize traffic signal timing to reduce delays and fuel consumption. Phase 1 consisted of 25 traffic signals on S 320th Street between 8th Avenue S and S Peasley Canyon Road at S 321st Street and all signals in City Center, including two traffic signals owned by WSDOT and two owned by King County. Phase 2 added 18 more intersections south of S 324th Street and east of 1st Avenue S, including three traffic signals owned by WSDOT. Phase 3 added 13 more intersections north of S 312th Street and east of 1st Avenue S, one of which is owned by King County. The following map shows the extent of the project.

Under state statute, traffic signals at freeway ramps and outside of incorporated cities over certain population thresholds are exclusively WSDOT-owned and operated. However, WSDOT provides an exception for agencies operating adaptive traffic control systems where having one agency control signal timing is advantageous to the general public, subject to a variety of terms and conditions. The attached agreement provides these terms and conditions.

The WSDOT-owned traffic signals subject to this agreement are located at:

- S 320th Street and I-5 Southbound ramps;
- S 320th Street and I-5 Northbound ramps;
- SR 18 (S 348th Street) and I-5 Southbound off-ramp;
- SR 161 (Enchanted Parkway S) and SR 18 Westbound off-ramp
- SR 161 (Enchanted Parkway S) and Milton Road S.



As part of this agreement, the City is committing to operate and maintain these traffic signals and street lighting associated with these signalized intersections at the City's expense. In addition, the City commits to the following:

- Using WSDOT standards for setting various signal timing parameters (which are similar to the City's);
- Operating ramp signals to minimize off-ramp queues onto the freeway through lanes, and minimizing on-ramp queues into the city streets;
- Providing maintenance checks at 2-month intervals rather than the current City practice of 3-month intervals (although WSDOT's preventative maintenance checks are not as thorough);
- The City will coordinate with WSDOT on scheduling of maintenance or other work, and meet quarterly to discuss operational issues.

The initial term of the agreement is for one year, automatically renewing every year.

GMB 1160
**Agreement between the City of Federal Way and the Washington State Department of
Transportation for Maintenance and Operation of Adaptive Signal Systems**

This Maintenance Agreement, hereinafter "Agreement," is entered into between the Washington State Department of Transportation, hereinafter "WSDOT," and the City of Federal Way, Washington, hereinafter the "City," collectively the "Parties" and individually the "Party."

RECITALS

1. The City has a Citywide Adaptive Signals project, hereinafter the "Project," for improvements at signalized intersections throughout the City, including installation of an adaptive control system. Funding for the Project includes federal funding pursuant to Federal Aid No. HSIP-CM-000S(464) and the Project is to be constructed in compliance with federal aid project guidelines.
2. WSDOT owns five of the signalized intersections that are part of the Project. Four of these intersections have ramp signals, hereinafter the "WSDOT Ramp Signals," located at I-5 at South 320th Street (SB Ramp), I-5 at South 320th Street (NB Ramp), I-5 at SR 18 (SB Off Ramp), and SR 161 at SR 18 (WB Off Ramp), as shown in Exhibit A. The fifth signalized intersection, hereinafter the "WSDOT Non-Ramp Signal," is located at SR 161 at Milton Road South/South 360th Street, as shown in Exhibit A. The WSDOT Ramp Signals and WSDOT Non-Ramp Signal are hereinafter collectively the "WSDOT Signals." Luminaires owned by WSDOT associated with the five signalized intersections, hereinafter "WSDOT Luminaires," are deemed to be part of the WSDOT Signals for purposes of this Agreement. Locations of the WSDOT Luminaires and the City-owned Luminaires are shown in Exhibit B and the City's maintenance and operation responsibilities for the WSDOT Luminaires are defined in Section 3 of this Agreement.
3. WSDOT has permitted the City's construction for the Project in WSDOT I-5, SR 18 and SR 161 right of way in Construction Agreement GCB 3359.
4. The Parties desire to define maintenance and operation obligations regarding the WSDOT Signals and WSDOT Luminaires.
5. The City acknowledges that the costs and expenses incurred by the City in maintaining and operating the WSDOT Signals and WSDOT Luminaires are offset by the benefits the City receives by having improved traffic signal performance at interfaces with City streets.

NOW, THEREFORE, pursuant to RCW 47.28.140, the above recitals are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, covenants and performances contained herein, and the attached Exhibit A, Exhibit B and Exhibit C, which are incorporated and made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. CITY OPERATION OF WSDOT RAMP SIGNALS

- 1.1 At its sole cost and expense, the City will operate the WSDOT Ramp Signals at the intersection locations shown in Exhibit A by carrying out the responsibilities specified in Sections 1.2 through 1.12 of this Agreement.

- 1.2 The ramp signals at the intersection of the on-ramp and off-ramp with the arterial serve as control devices transitioning from “intermittent platoon,” as in arterial signal control, to “steady and paced release,” as in ramp metering control. In general, the transitional signal timing strategies are to make the platoon smaller and more frequent. This may include adjustment to multiple timing parameters, including cycle length, offset, conditional service, turn restriction, etc. The City will operate the WSDOT Ramp Signals consistent with these transitional signal timing strategies.
- 1.3 Within ninety (90) days of the date the City takes over responsibility for the operation of the WSDOT Ramp Signals pursuant to this Agreement, the Parties will jointly develop a traffic signal timing plan based on the dynamic capacity of the on-ramp and the dynamic demand of the off-ramp.
- 1.4 The City will operate the ramp terminal signals within the capacity constraint of the on-ramp capacity.
- 1.5 The City will program the City’s arterial control system to be responsive and adaptive to the dynamic changes of on-ramp capacity in real time.
- 1.6 The City will use its best efforts to program the ramp terminal signals and arterial controls to avoid off-ramp queues extending onto the freeway. The Parties understand that only occasionally in situations of severe congestion and limited flow on City streets, off-ramp queues may extend onto the freeway despite the City’s best efforts.
- 1.7 The City will terminate and/or truncate any green interval/phase feeding into the ramp soon enough so that ramp storage space is available for the following phase feeding into the ramp.
- 1.8 The City will use the vehicle detector output designated by WSDOT to provide necessary data for the City adaptive system.
- 1.9 The City will install any detection needed on the City street and the on-ramp to monitor ramp back up and adjust arterial timing so ramp storage is maintained and does not back up onto City streets.
- 1.10 The City will provide certain detector output and system timing parameters from their adaptive system to WSDOT.
- 1.11 The City will comply with WSDOT requirements as per the Traffic Operations Manual for settings such as minimum vehicle green, minimum vehicle clearance (yellow and all red), minimum walk time, and minimum flashing don’t walk. The City will use WSDOT provided values for clearance intervals in the WSDOT provided clearance calculation sheet with the understanding that adaptive signal control can vary based on real time demands during the day.
- 1.12 The City will provide a work station for the adaptive system at WSDOT Northwest Region Headquarters.

2. CITY OPERATION OF WSDOT NON-RAMP SIGNAL

- 2.1 At its sole cost and expense, the City will operate the WSDOT Non-Ramp Signal at the

intersection location shown in Exhibit A by carrying out the responsibilities specified in Section 2.2 through 2.3 of this Agreement.

- 2.2 The City will coordinate and adjust signal timing as necessary and requested by WSDOT.
- 2.3 The City will comply with WSDOT requirements as per the Traffic Operations Manual for settings such as minimum vehicle green, minimum vehicle clearance (yellow and all red), minimum walk time, and minimum flashing don't walk. The City will use WSDOT provided values for clearance intervals in the WSDOT provided clearance calculation sheet, with the understanding that adaptive signal control can vary based on real time demands during the day.

3. CITY MAINTENANCE AND REPAIR OF THE WSDOT SIGNALS

- 3.1 The City, at its sole cost and expense, will maintain and repair the WSDOT Signals (both Ramp and Non-Ramp) by carrying out the responsibilities specified in Sections 3.2 through 3.7 of this Agreement.
- 3.2 The City will perform all routine and ordinary maintenance and repair of the WSDOT Signals as shown in Exhibit C according to the following schedule:
 - 3.2.1 No less than one minor preventative maintenance every two (2) months. Exception for UPS (uninterrupted power supply) battery, which will be checked twice per year.
 - 3.2.2 No less than one major preventative maintenance per year. Major preventative maintenance will include recertification of conflict monitor.
- 3.3 The City will provide routine maintenance of the WSDOT Signals, including the WSDOT Luminares identified in Exhibit B, as follows:
 - 3.3.1 Remove and replace failed and obsolete signal and signal mast street light components (i.e. load switches, loop amplifiers, conflict monitors, light fixtures, etc.).
 - 3.3.2 Maintain accurate maintenance records as to the time and materials used in completing the various tasks.
 - 3.3.3 Provide routine preventative maintenance, including signal controller equipment (inside the controller cabinet) and display and detection equipment (including, but not limited to, signal heads, lamps, etc.) to the extent consistent with WSDOT's current preventative maintenance standards as now adopted or hereafter amended.
 - 3.3.4 Provide replacement of luminaire lamps on a four-year cycle.
 - 3.3.5 Provide periodic visual inspections of the service cabinet to maintain wiring and circuits.
 - 3.3.6 Repair and replace failed illumination components, burned out lamps, and circuit failures as necessary and/or requested by WSDOT.
- 3.4 Standards: Work to be performed by the City will be consistent with current WSDOT practices, as follows:

- 3.4.1 Components employed in traffic signal systems, Intelligent Transportation Systems (ITS), illumination systems, or any other electrical installation will conform to requirements of WAC 296-46B-010 Traffic management systems.
- 3.4.2 The City will document work performed in Signal Maintenance records.
- 3.5 The City will respond to unplanned maintenance call-outs as soon as possible and no longer than two hours after the City receives the call-out. This responsibility includes after hours and weekends and holidays.
- 3.6 At its sole cost and expense, the City will provide and install any equipment for the WSDOT Signals if such equipment differs from that provided by WSDOT.
- 3.7 Locates: At its sole cost and expense, the City, as the Party responsible for the maintenance and operation of the WSDOT Signals pursuant to this Agreement, will comply with the requirements of Chapter 19.122 RCW, including, but not limited to:
 - 3.7.1 The City will notify the Washington 811 service that the City is responsible for the WSDOT Signals and provide a map of the WSDOT Signals area to the Washington 811 service.
 - 3.7.2 Whenever the Washington 811 service notifies the City of a locate request in the WSDOT Signals area, the City will perform the locate and mark the location of underground facilities as specified by RCW 19.122.030 and RCW 19.122.031, as applicable.

4. CITY AND WSDOT COORDINATION AND PERFORMANCE

- 4.1 The City will notify WSDOT in writing which entity is carrying out the City's obligations to maintain, operate and/or repair the WSDOT Signals pursuant to this Agreement. If the City later chooses another entity to carry out its obligations it will notify WSDOT in writing by the next working day and will continue to provide updates to WSDOT of further changes, if any. "Writing" includes communication by email.
- 4.2 WSDOT and the City will meet at least quarterly to review system changes and issues of maintenance and operation of the WSDOT Signals. If both Parties agree a quarterly review meeting may occur by phone and/or via online meeting.
- 4.3 The City will work with WSDOT to implement improvements in response to safety and operational reviews conducted by WSDOT. These reviews include, but are not limited to, high accident reviews, left turn studies, and corridor field assessments.
- 4.4 The City will notify WSDOT of work performed on the WSDOT Signals to allow coordination with WSDOT's freeway and traffic signal maintenance and signal operations activities.
- 4.5 The City will coordinate review of modifications with WSDOT prior to implementation, except where extraordinary circumstances require the City to take immediate remedial action. In the event a condition exists concerning the WSDOT Signals resulting from storm damage, third party damage, unknown third party damage, or other reasons, the City may of its own volition remove any obvious and immediate traffic hazards before notification to WSDOT. The City is

responsible for implementing and maintaining necessary traffic control from the point at which the condition is identified until the traffic signal system is restored to its previous functional state.

- 4.6 The City agrees to respond to all constituent and media inquiries pertaining to maintenance and operation of the WSDOT Signals.

5. EMERGENCY MAINTENANCE

- 5.1 The City, at its sole cost and expense, agrees to perform emergency maintenance and operation of the WSDOT Signals. An emergency includes, but is not limited to, replacement of traffic signal systems or components resulting from accidents, adverse weather, vandalism or other forces or actions.
- 5.2 In the event WSDOT identifies a condition in the WSDOT Signals that warrants emergency maintenance, WSDOT will notify the City and request that the City address the maintenance problem. Upon WSDOT notification to the City, and in the event the City is not available to perform such emergency maintenance, WSDOT reserves the right to perform the necessary emergency work. Such work may be accomplished by use of WSDOT personnel or a contractor and will be at the expense of the City, and the City agrees to reimburse WSDOT for the actual direct and related indirect costs in accordance with Section 6 of this Agreement.

6. PAYMENT

- 6.1 In the event WSDOT or its contractor performs any maintenance and/or repair work authorized pursuant to this Agreement, WSDOT shall invoice the City for the actual direct and related indirect costs associated with the work performed. Upon receipt of a detailed, itemized invoice from WSDOT, the City shall make payment within sixty (60) calendar days. All sums due from the City to WSDOT and not paid within sixty (60) calendar days of the date of invoice shall bear interest at the rate of twelve percent (12%) per annum, or the highest rate of interest allowable by law, whichever is greater; provided that, if the highest rate allowable by law is less than twelve percent (12%), interest charged hereunder shall not exceed that amount. Interest shall be calculated from the sixty-first calendar day until the date paid. If the City objects to all or any portion of an invoice it shall notify WSDOT within twenty (20) calendar days from the date of receipt and shall pay only that portion of the invoice not in dispute. WSDOT and the City shall immediately make every effort to settle the disputed portion, and if necessary utilize dispute resolution as provided for in Section 11.5 of this Agreement. No interest shall be due on any portion of an invoice the City is determined not to owe following settlement between the parties or completion of dispute resolution process.
- 6.2 WSDOT shall pay for all operational power costs for facilities owned by WSDOT.
- 6.3 The City shall pay for all operational power costs for facilities owned by the City.

7. RIGHT OF ENTRY

- 7.1 WSDOT grants to the City and its authorized agents, contractors, subcontractors, and/or employees, a right of entry onto WSDOT I-5, SR 18 and/or SR 161 right of way for the purpose of performing maintenance, operation and/or work authorized by this Agreement.

- 7.2 The City grants to WSDOT and its authorized agents, contractors, subcontractors, and/or employees, a right of entry onto City property and/or City right of way for the purpose of performing maintenance, operation and/or repair work authorized by this Agreement.

8. DAMAGE TO RIGHT OF WAY

- 8.1 The City and its authorized agents, contractors, subcontractors, and/or employees shall not damage the I-5, SR 18 and/or SR 161 right of way while performing maintenance, operation and/or repair of the WSDOT Signals.
- 8.2 If the City, its authorized agents, contractors, subcontractors, and/or employees does damage the I-5, SR 18 and/or SR 161 right of way the City agrees to be directly responsible to WSDOT for the cost of reasonable repairs; provided that, prior to either the City or WSDOT commencing any such repairs, the Parties shall meet and confer regarding the nature and scope of repairs that are needed and shall allocate responsibility for the work.

9. THIRD PARTY DAMAGE

- 9.1 The City shall be responsible for repairing all third party damage to the WSDOT Signals at the City's expense.
- 9.2. If WSDOT has information concerning third party damage to the WSDOT Signals it shall inform the City as soon as practicable.

10. PARTY REPRESENTATIVES

- 10.1 For all communications under this Agreement the Parties designate the following representatives:

City of Federal Way	Washington State Department of Transportation
Rick Perez, P.E. City Traffic Engineer City of Federal Way 33325 8 th Avenue South Federal Way, WA 98003 (253) 835-2740 rick.perez@cityoffederalway.com	Karen McKenzie Signals Maintenance Superintendent Washington State Department of Transportation 3700 Ninth Avenue South Seattle, WA 98134 (206) 442-2119 McKenzK@wsdot.wa.gov

- 10.2 A Party may designate an alternative representative and in this event shall notify the other Party in writing, which includes communication by email.

11. GENERAL PROVISIONS

- 11.1 Amendment: This Agreement may be amended or modified only by the mutual agreement of the Parties. Such amendments or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

- 11.2 Term: The Term of this Agreement shall commence as of the last date signed below and shall continue for one year. The Agreement shall be automatically renewed for another one-year period on a calendar basis unless the Agreement is earlier terminated.
- 11.3 Termination:
- 11.3.1 This Agreement may be terminated by the mutual agreement of the Parties, in writing, by those authorized to bind the Parties.
 - 11.3.2 WSDOT may terminate this Agreement by providing sixty (60) calendar days written notice to the City. If WSDOT provides such notice to the City, this Agreement shall terminate sixty (60) calendar days from the date the City receives WSDOT's notice.
 - 11.3.3 The City may terminate this Agreement by providing sixty (60) calendar days written notice to WSDOT. If the City provides such notice to WSDOT, this Agreement shall terminate sixty (60) calendar days from the date WSDOT receives the City's notice.
 - 11.3.4 If WSDOT determines that the City has not maintained and operated any of the WSDOT Signals in conformance with WSDOT standards, WSDOT may terminate this Agreement by giving written notice with a date certain for termination, which may be immediately upon the City's receipt of the notice or upon an alternative date specified by WSDOT in its written notice.
 - 11.3.5 In the event of a termination of this Agreement, if the City has allowed non-WSDOT standard signal operation equipment to be placed in the WSDOT Signals, the City shall return all signal system controllers and software to WSDOT standards. The City shall abide by whatever WSDOT standards are in place at the time of termination. The City may keep its own equipment. Equipment or software placed by the City consistent with WSDOT standards on the date of installation are not required to be replaced at the time of termination.
 - 11.3.6 Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
- 11.4 Indemnification and Waiver: Each of the Parties shall protect, defend, indemnify, and hold harmless the other Party and its officers, officials, employees, and/or authorized agents, while acting within the scope of their employment as such, from any and all costs, claims, judgements, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, that Party's obligations performed or to be performed pursuant to the provisions of this Agreement. No Party shall be required to indemnify, defend, or hold harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, their officers, officials, employees, and/or authorized agents, and/or involve 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 indemnifying Party, its officers, officials, employees, and/or authorized agents. The Parties agree that their obligations under this section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of their officers, officials, employees, and/or authorized agents. For this purpose only, the Parties, by mutual negotiation, hereby waive, with respect to each other only, any immunity that would otherwise be available against such claims under the Industrial

Insurance provisions of Title 51 RCW. This indemnification and waiver shall survive the termination of this Agreement.

- 11.5 Disputes: The Parties shall work collaboratively to resolve disputes and issues arising out of, or related to, this Agreement. Disagreements shall be resolved promptly and at the lowest level of hierarchy. To this end, following the dispute resolution process in Sections 11.5.1 through 11.5.4 shall be a prerequisite to the filing of litigation concerning any dispute between the Parties:
- 11.5.1 The Representatives designated in this Agreement shall use their best efforts to resolve disputes and issues arising out of, or related to, this Agreement. The Representatives shall communicate regularly to discuss the status of the tasks to be performed hereunder and to resolve any disputes or issues related to the successful performance of this Agreement. The Representatives shall cooperate in providing staff support to facilitate the performance of this Agreement and the resolution of any disputes or issues arising during the term of this Agreement.
- 11.5.2 A Party's Representative shall notify the other Party in writing of any dispute or issue that the Representative believes may require formal resolution according to Section 11.5.4. The Representatives shall meet within five (5) working days of receiving the written notice and attempt to resolve the dispute.
- 11.5.3 In the event the Representatives cannot resolve the dispute or issue, the City's Mayor, and WSDOT's Northwest Region Administrator, or their respective designees, shall meet and engage in good faith negotiations to resolve the dispute.
- 11.5.4 In the event the City's Mayor and WSDOT's Northwest Region Administrator, or their respective designees, cannot resolve the dispute or issue, the City and WSDOT shall each appoint a member to a disputes board. These two members shall then select a third member not affiliated with either Party. The three member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. All expenses for the third member of the dispute board shall be shared equally by both Parties; however, each Party shall be responsible for its own costs and fees.
- 11.6 Venue: In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings shall be brought in Thurston County Superior Court. Further, the Parties agree that each will be solely responsible for payment of its own attorney's fees, witness fees, and costs.
- 11.7 Records and Audit: All records for maintenance, operation and/or repair work done pursuant to this Agreement shall be held and kept available for inspection and audit by WSDOT, the City and the Federal government for a period of six (6) years from the date of termination of this Agreement or any final payment authorized under this Agreement, whichever is later. Each Party shall have full access to and right to examine said records, during normal business hours and as often as it deems necessary. Should a Party require copies of any records from the other Party, the requesting Party agrees to pay the costs thereof. In the event of litigation or claim arising from the performance of this Agreement, the City and WSDOT agree to maintain the records and accounts until such litigation, appeal or claims are finally resolved. This section shall survive the termination of this Agreement.

- 11.8 **Severability:** Should any section, term or provision of this Agreement be determined to be invalid, the remainder of this Agreement shall not be affected and the same shall continue in full force and effect.
- 11.9 **Calendar Day:** Calendar day means any day on the calendar including Saturday, Sunday or a legal local, state, or federal holiday.
- 11.10 **Independent Contractor:** Each Party shall be deemed an independent contractor for all purposes, and the employees of each Party or any of its contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be employees of the other Party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party's date last signed below.

City of Federal Way	Washington State Department of Transportation
<u>Sign and Date:</u>	<u>Sign and Date:</u>
Name: Title:	Mark Leth Assistant Regional Administrator Traffic Management - Northwest Region
Approved as to Form City of Federal Way	Approved as to Form Washington State Department of Transportation
<u>Sign and Date:</u>	<u>Sign and Date:</u>
Name: City Attorney	Name: Assistant Attorney General

CITY OF FEDERAL WAY CITY COUNCIL AGENDA BILL

SUBJECT: ARTS COMMISSION 2021 CONTRACT FOR SERVICES
POLICY QUESTION: *Should the City Council approve the 2021 Arts Commission Contracts for Services funding recommendations?*
COMMITTEE: PRHSPS

MEETING DATE: 4/13/2021

CATEGORY:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution | <input type="checkbox"/> Other |

STAFF REPORT BY: Cody Geddes, Recreation Manager

DEPT: Parks

Attachments:

2021 Contract for Services Recommendation

Options Considered:

1. Approve the Arts Commission 2021 Contract for Services funding recommendations and forward to the April 20, 2021 full City Council consent agenda for approval
2. Do not approve the Arts Commission 2021 Contract for Services, and provide direction to staff

MAYOR'S RECOMMENDATION: Option 1
MAYOR APPROVAL:
JJ 3/5/21
Committee
Initial/Date
JJ 3/5/21
Council
Initial/Date
DIRECTOR APPROVAL:
JEH 3/4/2021
Initial/Date
COMMITTEE RECOMMENDATION: *I move to approve the 2021 Arts Commission Contract for Services with an increase in \$2,000 from the existing Arts Commission Budget and forward to the April 20, 2021 City Council consent agenda for approval.*
Kochmer via Zoom
 Committee Chair

Asseta-Dewson
Via Zoom
 Committee Member

Bernso via Zoom
 Committee Member

PROPOSED COUNCIL MOTION: *"I move approval of the Arts Commission 2021 Contract for Services funding recommendations."*

(BELOW TO BE COMPLETED BY CITY CLERKS OFFICE)

COUNCIL ACTION:

- ☐ **APPROVED**
☐ **DENIED**
☐ **TABLED/DEFERRED/NO ACTION**
☐ **MOVED TO SECOND READING** (ordinances only)

REVISED – 11/2016

COUNCIL BILL #

 1ST reading

Enactment reading

ORDINANCE #
RESOLUTION #

Contracts for Services
2021
Request

Organization	2021 Allocation	2020 Allocation	2019 Allocation	2018 Allocation	2017 Allocation	2016 Allocation	2015 Allocation	2014 Allocation
Centerstage	14,000	12,500	13,000	9,000	10,000	9,500	9,500	8,500
Request	12,500	30,000	45,908	10,000	10,000	15,000	15000	12000
FW Chorale	4,500	4,500	4,000	4,000	4,500	4,500	4,500	4,000
Request	7,000	5,000	8,000	7,500	8,000	6,000	6000	6000
Harmony Kings	2,000	1,500	1,750	1,500	1,600	1,600	1,600	1,400
Request	1,500	2,000	2,000	2,000	2,000	2,000	1500	1500
FW Symphony	10,000	12,500	13,000	16,500	18,100	18,100	19,100	17,750
Request	22,950	25,000	30,000	30,000	29,200	30,000	30000	20000
Rosebud Children's	4,000	4,000	4,000	2,500	2,500	3,000	3,000	2,750
Theatre	6,000	10,000	4,000	10,000	5,000	5,000	5000	3000
FW Youth Orchestra	2,500	500	500	2,000	2,500	2,300	2,300	2,000
Symphony	7,300	5,000	5,090	5,000	5,000	4,000	4000	6000
Auburn Symphony	1,750							
Orchestra	3,500							
South King Tool Library	2,500	500						
Request	4,500	2,500						
FW Lions Club	1,000	500						
Make Music Day	1,000	3,000						
Totals Allocation	42,250	40,500	40,500	40,700	40,700	42,000	41,500	37,900
Request	66,250	89,517						

CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: 2021-2022 HUMAN SERVICES COMMISSION WORK PLAN

POLICY QUESTION: Should the Council approve the 2021-2022 Human Services Commission Work Plan?

COMMITTEE: Parks, Recreation, Human Services, & Public Safety

MEETING DATE: 04/13/2021

CATEGORY:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution | <input type="checkbox"/> Other |

STAFF REPORT BY: Brittany Julius, CDBG/Human Services Coordinator **DEPT:** CD

Sarah Bridgeford, Community Services Manager

Background: The Human Services Commission discussed their 2021-2022 Work Plan during their January 25 Commission meeting and voted at their February 22 Commission meeting to forward the proposed 2021-2022 Human Services Commission Work Plan to the Council for approval. The plan outlines specific goals and activities that the Commission intends to follow to focus their annual efforts.

Attachments: 2021-2022 Human Services Commission Work Plan

Options Considered:

1. Approve the proposed 2021-2022 Human Services Commission Work Plan.
2. Do not approve the proposed 2021-2022 Human Services Commission Work Plan and provide direction to staff.

MAYOR'S RECOMMENDATION: Option 1

MAYOR APPROVAL: <u>JS 4/1/21</u>	<u>JS 4/1/21</u>	DIRECTOR APPROVAL: <u>BD 3/31/2021</u>
<small>Committee Initial/Date</small>	<small>Council Initial/Date</small>	<small>Initial/Date</small>

COMMITTEE RECOMMENDATION: *I move to forward the 2021-2022 Human Services Commission Work Plan to the April 20, 2021 consent agenda for approval.*

<u>Kochmer via zoom</u>	<u>Asser L. Dawson via zoom</u>	<u>Berns via zoom</u>
Committee Chair	Committee Member	Committee Member

PROPOSED COUNCIL MOTION: *"I move approval of the 2021-2022 Human Services Commission Work Plan."*

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

- ☐ **APPROVED**
- ☐ **DENIED**
- ☐ **TABLED/DEFERRED/NO ACTION**
- ☐ **MOVED TO SECOND READING** (*ordinances only*)

REVISED – 12/2017

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #

RESOLUTION #

**CITY OF FEDERAL WAY
HUMAN SERVICES COMMISSION
2021 Annual Work Program**

<u>Item</u>	<u>Month(s)</u>	<u>Who</u>	<u>Status</u>
1. Prior Year Review	January	Staff & Commission	
2. 2020 CAPER Public Hearing	February	Staff & Commission	
3. Prepare for the HSGF/CDBG Public Services Grant Process	February-May	Staff & Commission	
4. Program Updates	Biannual	Staff	
5. CDBG Capital Application Process	June-August	Staff & Commission	
6. Retreat	July	Staff & Commission	
7. Public Hearing for the 2022 Annual Action Plan	September	Commission	
8. Agency Visits/Presentations	January-December	Commission	
9. Debrief CDBG Capital Application Process	October	Staff & Commission	
10. Resource List	November	Commission	

**CITY OF FEDERAL WAY
HUMAN SERVICES COMMISSION
2022 Annual Work Program**

<u>Item</u>	<u>Month(s)</u>	<u>Who</u>	<u>Status</u>
1. Prior Year Review	January	Staff & Commission	
2. 2021 CAPER Public Hearing	February	Staff & Commission	
3. Prepare for the HSGF/CDBG Public Services Grant Process	February-May	Staff & Commission	
4. Program Updates	Biannual	Staff	
5. Review HSGF/CDBG Public Services Applications	May-August	Staff & Commission	
6. CDBG Capital Application Process	June-August	Staff & Commission	
7. Retreat	July	Staff & Commission	
8. Public Hearing for the 2023 Annual Action Plan	September	Commission	
9. Agency Visits/Presentations	September-December	Commission	
10. Debrief HSGF/CDBG Public Services Grant Process	October	Staff & Commission	
11. Debrief CDBG Capital Application Process	October	Staff & Commission	
12. Recommendations for 2023-2024 HSGF Grants to City Council	November	Staff & Commission	
13. Prepare the 2023-2024 Human Services Commission Work Plan	November-December	Staff & Commission	

HUMAN SERVICES COMMISSION 2021-2022 WORK PROGRAM

Prior Year Review

The Commission will discuss processes and tasks from prior Program Year and review ways to streamline efforts. Staff will work with Commissioners to ensure recommendations are in alignment with the City's processes before implementing changes or recommending to City Council for approval.

2020 and 2021 CAPER

The Consolidated Annual Performance and Evaluation Report (CAPER) documents performance on the activities and projects undertaken and completed in the previous program year under the CDBG program. The CAPER is completed and submitted to HUD not later than March 31. The Commission will hold a public hearing and make recommendations to City Council at the February meeting.

Prepare for the HSGF/CDBG Public Services Grant Process

The Commission conduct outreach to agencies prior to open cycle to collect feedback on strengths and opportunities for improvement of application process. The Commission will also review the HSGF/CDBG Public Services Rating Tool. Recommended changes will be incorporated. The Commission will participate in trainings to be prepared to evaluate applications.

Program Update

Commission will review performance and program updates on a biannual cadence. Updates will include a snapshot of services provided via the Human Services General Fund grants, highlighting both the progress and barriers reported by agencies.

Review HSGF/CDBG Public Services Applications

Commission will review and evaluate complete, on-time applications for the City's Human Services General Fund and Community Development Block Grant (CDBG) Public Services.

CDBG Capital Application Process

The Commission will review all eligible applications. The Commission will make recommendations to City Council for consideration and action as part of the Con Plan approval process, which, as noted above, includes the 2022 and 2023 Annual Action Plan, respectively.

Retreat

The Commission will have a meeting specifically designed to facilitate concentrated dialogue about the Commission's goals and how their scope of work can positively impact relevant Human Services issues.

Public Hearing for the 2022 and 2023 Annual Action Plan

The Commission will hold a public hearing on the 2022 and 2023 Annual Action Plan for the Community Development Block Grant (CDBG) program. The Annual Action Plan will incorporate funding recommendations made by the Commission.

Agency Visits/Presentations

The Commission engages in site visits of agencies that are serving Federal Way residents, whether the programs are currently funded or not. Agency visits include presentations to the Commission at regular meetings and Commission visits to the agency offices. Agency visits help the Commission develop a deeper understanding of both the services provided by individual agencies and the human services delivery system as a whole. Commissioners prioritize which programs they want to hear from or visit. Agency visits do not occur during the open grant application or grant evaluation periods.

Debrief HSGF/CDBG Public Services Grant Process

The Commission will discuss the grant process including the questions included in the Common Application (Share1App). The Commission may consider adding supplemental questions for the next funding cycle.

Debrief CDBG Capital Application Process

The Commission will discuss the grant process and identify any potential questions or areas to be changed in future cycles.

Resource List

The Commission will review a list of resources that address various needs, from homeless shelters to food banks. This list will not replace 2-1-1.

Recommendations for 2023-2024 HSGF Grants to City Council

Present funding recommendations for the Human Services General Fund grants to City Council.

Prepare the 2023-2024 Human Services Commission Work Plan

Commissioners work with staff to prepare the 2023-2024 Human Services Commission Work Plan.

CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: INTERLOCAL AGREEMENT WITH PUBLIC HEALTH OF SEATTLE-KING COUNTY FOR THE SOUTH KING COUNTY MOBILE MEDICAL PROGRAM

POLICY QUESTION: Should the City enter into an interlocal agreement with Public Health of Seattle-King County for the South King County Mobile Medical Program?

COMMITTEE: Parks, Recreation, Human Services, and Public Safety

MEETING DATE: April 13, 2021

CATEGORY:

- | | | |
|--|-------------------------------------|---|
| <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution | <input type="checkbox"/> Other |

STAFF REPORT BY: Brittany Julius, CDBG/Human Services Coordinator

DEPT: Community Development

Attachments: 1. Staff Report
2. Interlocal Agreement

Options Considered:

1. Approve the proposed agreement.
2. Do not approve the proposed agreement and provide direction to staff.

MAYOR'S RECOMMENDATION: Option 1.

MAYOR APPROVAL:

[Signature] *[Signature]*
Committee Initial/Date Council Initial/Date

DIRECTOR APPROVAL:

[Signature] 4/1/21
Initial/Date

COMMITTEE RECOMMENDATION: "I move to forward the proposed Interlocal Agreement to the April 20, 2021 consent agenda for approval."

Kochmer via Zoom
Committee Chair

ASSETA-DANSEN
VIC Zoom
Committee Member

Berns via Zoom
Committee Member

PROPOSED COUNCIL MOTION: "I move approval of the proposed Interlocal Agreement, and authorize the Mayor to execute said agreement."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

- ☐ APPROVED
- ☐ DENIED
- ☐ TABLED/DEFERRED/NO ACTION
- ☐ MOVED TO SECOND READING (ordinances only)

REVISED - 11/2019

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #

RESOLUTION #

CITY OF FEDERAL WAY
MEMORANDUM

DATE: April 2, 2021

TO: City Council Members

VIA: Jim Ferrell, Mayor

FROM: Sarah Bridgeford, Community Services Manager
Brittany Julius, CDBG/Human Services Coordinator

SUBJECT: Interlocal Agreement with Public Health of Seattle-King County for the South King County Mobile Medical Program

Financial Impacts:

The cost to the City for the interlocal agreement with Public Health of Seattle-King County was included within the approved budget under the Community Development Department, Community Services Division budget as part of the \$536,000 in grant funding in professional services. The grant funding approved by City Council on November 17, 2020 included \$16,000 for Public Health of Seattle-King County for the South King County Mobile Medical Program. In accordance with the approved budget, this item is funded by General Fund. Upon completion of the agreement, there will be no currently planned future costs.

Background Information:

The City Council allocated \$536,000 to the Human Services General Fund grants as part of the 2021-2022 budget. On November 17, 2020, City Council approved the Human Services Commission 2021-2022 grant recommendations, which included \$8,000 per year for two years for Public Health of Seattle-King County's South King County Mobile Medical Program. On March 9, 2021, the Parks, Recreation, Human Services, and Public Safety Council Committee moved to forward the proposed Interlocal Agreement to the March 16, 2021 consent agenda for approval, and was approved by Council during the meeting. The contract that was proposed on March 9, 2021 was reviewed and approved by Public Health of Seattle-King County for the South King County Mobile Medical Program. Before executing the contract, the agency responded with additional changes that included a self-insurance clause and county, instead of agency, indemnification provisions.

The proposed changes to the contract have no impact on the scope of work nor funding, and will still provide dental services to people experiencing homelessness in the City of Federal Way. The program proposes to provide 27 dental visits per year to 26 Federal Way residents with the goal of improving health.

**HUMAN SERVICES AGREEMENT
FOR
SOUTH KING COUNTY MOBILE MEDICAL PROGRAM**

This Human Services Agreement ("Agreement") is made between the City of Federal Way, a Washington municipal corporation ("City"), and Public Health of Seattle – King County a Washington municipal corporation ("Agency"). The City and Agency (together "Parties") are located and do business at the below addresses which shall be valid for any notice required under this Agreement:

PUBLIC HEALTH OF SEATTLE - KING COUNTY:	CITY OF FEDERAL WAY:
Patty Hayes 401 5th Ave #1300 Seattle, WA 98104 (206) 263-8285 (telephone) patty.hayes@kingcounty.gov	Brittany Julius 33325 8th Ave. S. Federal Way, WA 98003-6325 (253) 835-2651 (telephone) brittany.julius@cityoffederalway.com

The Parties agree as follows:

- 1. TERM.** The term of this Agreement shall be for a period commencing on January 1, 2021 and terminating on December 31, 2022 ("Term"). Funding for the second year of the Agreement is contingent upon satisfactory Agreement performance during the first year of the Agreement term and upon funding availability. This Agreement may be extended for additional periods of time upon the mutual written agreement of the City and the Agency.
- 2. SERVICES.** The Agency shall perform the services more specifically described in Exhibit A, attached hereto and incorporated by this reference ("Services"), in a manner consistent with the accepted professional practices for other similar services within the Puget Sound region in effect at the time those services are performed in a satisfactory manner, within the time period prescribed by the City. The Agency warrants that it has the requisite training, skill, and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services shall begin immediately upon the effective date of this Agreement. Services shall be subject, at all times, to inspection by and approval of the City, but the making (or failure or delay in making) such inspection or approval shall not relieve the Agency of responsibility for performance of the Services in accordance with this Agreement, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery.
- 3. TERMINATION.** Either party may terminate this Agreement, with or without cause, upon providing the other party thirty (30) days' written notice at its address set forth above. The City may terminate this Agreement immediately if the Agency fails to maintain required insurance, breaches confidentiality, or materially violates Section 12, and such may result in ineligibility for further City agreements.
- 4. COMPENSATION.**
 - 4.1 Amount.** In return for the Services, the City shall pay the Agency an amount not to exceed a maximum amount and according to a rate or method as delineated in Exhibit B, attached hereto and incorporated by this reference. The City shall reimburse the Agency only for the approved activities and in accordance with the procedures as specified in Exhibit B. The Agency shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction resulting from this Agreement.

4.2 Method of Payment. On a quarterly basis, the Agency shall submit to the City an invoice for payment on a form provided by the City and all reports as required by this Agreement. Payment shall be made on a quarterly basis by the City only after the Services have been performed and within forty-five (45) days after the City's receipt and approval of a complete and correct invoice and reports. The City will use the quantity of Services actually delivered, as reported on the Agency's reports, as a measure of satisfactory performance under this Agreement. The City shall review the Agency's reports to monitor compliance with the performance measures set forth in Exhibit A. Should the Agency fail to meet the performance measures for each quarter, the City reserves the right to adjust payments on a pro rata basis at any time during the term of this Agreement. Exceptions may be made at the discretion of the City's Human Services Manager in cases where circumstances beyond the Agency's control impact its ability to meet its service unit goals and the Agency has shown reasonable efforts to overcome these circumstances to meet its goals. If the City objects to all or any portion of the invoice, it shall notify the Agency and reserves the option to pay only that portion of the invoice not in dispute. In that event, the Parties will immediately make every effort to settle the disputed portion.

4.3 Final Invoice. The Agency shall submit its final invoice by the date indicated on Exhibit B. If the Agency's final invoice and reports are not submitted by the last date specified in Exhibit B, the City shall be relieved of all liability for payment to the Agency of the amounts set forth in said invoice or any subsequent invoice; provided, however, that the City may elect to pay any invoice that is not submitted in a timely manner.

4.4 Non-Appropriation of Funds. If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will not be obligated to make payments for Services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon the completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the City in the event this provision applies.

5. INDEMNIFICATION.

5.1 County Indemnification. The County represents to the City that the County has competent, trained staff and, where necessary, professional staff to render the services to be performed under this Agreement. The County agrees to indemnify, defend, and hold the City, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, actions, losses, and liabilities(including costs, expenses, and all reasonable attorneys' fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives arising from, resulting from, or in connection with this Agreement to the extent caused by the negligent acts, errors, or omissions of the County, its partners, shareholders, agents, employees, or by the County's breach of this Agreement.

5.2 Industrial Insurance Act Waiver. It is specifically and expressly understood that the Agency waives any immunity that may be granted to it under the Washington State industrial insurance act, Title 51 RCW, solely for the purposes of this indemnification. Agency's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. The Parties further acknowledge that they have mutually negotiated this waiver.

5.3 City Indemnification. The City agrees to release, indemnify, defend and hold the Agency, its officers, directors, shareholders, partners, employees, agents, representatives, and subcontractors harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgments, awards, injuries, damages, liabilities, losses, fines, fees, penalties expenses, attorney's fees, costs, and/or litigation expenses to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City.

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

6. **INSURANCE.** The Agency agrees to carry insurance for liability which may arise from or in connection with the performance of the services or work by the Agency, their agents, representatives, employees or subcontractors for the duration of the Agreement and thereafter with respect to any event occurring prior to such expiration or termination as follows:

6.1 Self-Insurance Program. The City acknowledges, agrees, and understands that the Agency is self-funded for all of its liability exposures. The Agency agrees, at its own expense to provide the City with at least 30 days prior written notice of any material change in the Agency's self-funded program and will provide the City with a certificate of self-insurance as adequate proof of coverage. The City further acknowledges, agrees and understands that the Agency does not purchase Commercial General Liability insurance and is a self-insured governmental entity; therefore, the Agency does not have the ability to add the City as an additional insured.

6.2 No Limit of Liability. City's acknowledgement of Agency's fully funded self-insurance program shall not be construed to limit the liability of the Agency to the coverage provided by such program, or otherwise limit the City's recourse to any remedy available at law or in equity. The Agency's self-insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Agency's insurance and shall not contribute with it.

6.4 **Survival.** The provisions of this Section shall survive the expiration or termination of this Agreement.

7. **CONFIDENTIALITY.** All information regarding the City obtained by Agency in performance of this Agreement shall be considered confidential subject to applicable laws. Breach of confidentiality by the Agency may be grounds for immediate termination. All records submitted by the City to the Agency will be safeguarded by the Agency. The Agency will fully cooperate with the City in identifying, assembling, and providing records in case of any public records disclosure request.

8. **WORK PRODUCT.** All originals and copies of work product, including plans, sketches, layouts, designs, design specifications, records, files, computer disks, magnetic media or material which may be produced or modified by Agency while performing the Services shall belong to the City upon delivery. The Agency shall make such data, documents, and files available to the City and shall deliver all needed or contracted for work product upon the City's request. At the expiration or termination of this Agreement all originals and copies of any such work product remaining in the possession of Agency shall be delivered to the City.

9. **BOOKS AND RECORDS.** The Agency agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be maintained for a period of six (6) years after the termination of this Agreement and may be subject, at all reasonable times, to inspection, review or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

10. **INDEPENDENT CONTRACTOR.** The Parties intend that the Agency shall be an independent contractor and that the Agency has the ability to control and direct the performance and details of its work, the City being interested only in the results obtained under this Agreement. The City shall be neither liable nor obligated to pay Agency sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. Agency shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the Services and work and shall utilize all protection necessary for that purpose. All work shall be done at Agency's own risk, and Agency shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work. The Agency shall pay all income and other taxes due except as specifically provided in Section 4. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Agency, shall not be deemed to convert this Agreement to an employment contract.

11. **CONFLICT OF INTEREST.** It is recognized that Agency may or will be performing services during the Term for other parties; however, such performance of other services shall not conflict with or interfere with Agency's ability to perform the Services. Agency agrees to resolve any such conflicts of interest in favor of the City. Agency confirms that Agency does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Agency's selection, negotiation, drafting, signing, administration, or evaluating the Agency's performance.

12. **EQUAL OPPORTUNITY EMPLOYER.** In all services, programs, activities, hiring, and employment made possible by or resulting from this Agreement or any subcontract, there shall be no discrimination by Agency or its subcontractors of any level, or any of those entities' employees, agents, sub-agencies, or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, religion, creed, national origin, marital status, or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply to, but not be limited to, the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Agency shall comply with and shall not violate any of the terms of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973, 49 CFR Part 21, 21.5 and 26, or any other applicable federal, state, or local law or regulation regarding non-discrimination.

13. **GENERAL PROVISIONS.**

13.1 **Interpretation and Modification.** This Agreement, together with any attached Exhibits, contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior statements or agreements, whether oral or written, shall be effective for any purpose. Should any language in any Exhibits to this Agreement conflict with any language in this Agreement, the terms of this Agreement shall prevail. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement. Any provision of this Agreement that is declared invalid, inoperative, null and void, or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect. Any act done by either Party prior to the effective date of the Agreement that is consistent with the authority of the Agreement and compliant with the terms of the Agreement, is hereby ratified as having been performed under the Agreement. No provision of this Agreement, including this provision, may be amended, waived, or modified except by written agreement signed by duly authorized representatives of the Parties.

13.2 **Assignment and Beneficiaries.** Neither the Agency nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent. Subject to the foregoing, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns. This Agreement is made and entered into for the sole protection and benefit of the Parties hereto. No other person or entity shall have any right of action or interest in this Agreement based on any provision set forth herein.

13.3 **Compliance with Laws.** The Agency shall comply with and perform the Services in accordance with all applicable federal, state, local, and city laws including, without limitation, all City codes, ordinances, resolutions, regulations, rules, standards and policies, as now existing or hereafter amended, adopted, or made effective. If a violation of the City's Ethics Resolution No. 91-54, as amended, occurs as a result of the formation or performance of this Agreement, this Agreement may be rendered null and void, at the City's option.

13.4 **Enforcement.** Time is of the essence in this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Agency's

performance of this Agreement. Any notices required to be given by the Parties shall be delivered at the addresses set forth at the beginning of this Agreement. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth above. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute. The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default. This Agreement shall be made in, governed by, and interpreted in accordance with the laws of the State of Washington. If the Parties are unable to settle any dispute, difference or claim arising from this Agreement, the exclusive means of resolving that dispute, difference, or claim, shall be by filing suit under the venue, rules and jurisdiction of the King County Superior Court, King County, Washington, unless the parties agree in writing to an alternative process. If the King County Superior Court does not have jurisdiction over such a suit, then suit may be filed in any other appropriate court in King County, Washington. Each party consents to the personal jurisdiction of the state and federal courts in King County, Washington and waives any objection that such courts are an inconvenient forum. If either Party brings any claim or lawsuit arising from this Agreement, each Party shall pay all its legal costs and attorney's fees and expenses incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; provided, however, however nothing in this paragraph shall be construed to limit the Parties' rights to indemnification under Section 5 of this Agreement.

13.5 Execution. Each individual executing this Agreement on behalf of the City and Agency represents and warrants that such individual is duly authorized to execute and deliver this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and with the same effect as if all Parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The signature and acknowledgment pages from such counterparts may be assembled together to form a single instrument comprised of all pages of this Agreement and a complete set of all signature and acknowledgment pages. The date upon which the last of all of the Parties have executed a counterpart of this Agreement shall be the "date of mutual execution" hereof.

[Signature page follows]

CITY HALL
33325 8th Avenue South
Federal Way, WA 98003-6325
(253) 835-7000
www.cityoffederalway.com

IN WITNESS, the Parties execute this Agreement below, effective the last date written below.

CITY OF FEDERAL WAY:

ATTEST:

Jim Ferrell, Mayor

Stephanie Courtney, CMC, City Clerk

APPROVED AS TO FORM:

DATE: _____

J. Ryan Call, City Attorney

PUBLIC HEALTH OF SEATTLE –
KING COUNTY:

By: _____

Printed Name: _____

Title: _____

DATE: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On this day personally appeared before me _____, to me known to be the _____ of _____ that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

GIVEN my hand and official seal this _____ day of _____, 20__.

Notary's signature _____

Notary's printed name _____

Notary Public in and for the State of Washington.

My commission expires _____

EXHIBIT A

SERVICES

Project Summary

The Agency shall provide dentistry services to people experiencing homelessness in the City of Federal Way. The Agency shall ensure that services provided with funding under this Agreement are made available to Federal Way residents.

Performance Measures

A. Number Served

The Agency agrees to serve, at minimum, the following unduplicated number of Federal Way residents with Human Services funds:

	1 st Quarter JAN. – MARCH	2 nd Quarter APRIL – JUNE	3 rd Quarter JULY – SEPT.	4 th Quarter OCT. – DEC.	Total
No. of unduplicated Federal Way persons assisted in 2021	6	6	7	7	26
No. of unduplicated Federal Way persons assisted in 2022	6	6	7	7	26

B. Units of Service

The Agency agrees to provide, at minimum, the following units of service by quarter:

	1 st Quarter JAN. – MARCH	2 nd Quarter APRIL – JUNE	3 rd Quarter JULY – SEPT.	4 th Quarter OCT. – DEC.	Total
2021					
1. Dental Visits	6	6	7	8	27
2022					
1. Dental Visits	6	6	7	8	27

C. Definition of Services

1. Dental Visits – Dental care visits on the mobile van.

D. Performance Measure(s)

Outcome(s) to be reported:

1. 35% of dental patients who received an initial dental van visit will also complete referrals for additional dental treatment (e.g. oral surgery, rehabilitative services for traumatic injuries, return visits for extensive treatment plans). Treatment services will be provided by a Mobile Medical dentist or confirmed via referral process.

Records

A. Project Files

The Agency shall maintain files for this project containing the following items:

1. Notice of Grant Award.
2. Motions, resolutions, or minutes documenting Board or Council actions.
3. A copy of this Agreement with the Scope of Services.
4. Correspondence regarding budget revision requests.
5. Copies of all invoices and reports submitted to the City for this project.
6. Bills for payment with supporting documentation.
7. Copies of approved invoices and warrants.
8. Documentation of client address; residency verified via King County Parcel Viewer.
9. Documentation of client income. The Agency agrees to use the HUD Income Guidelines to report income of clients served under this Agreement. Income guidelines may be adjusted periodically by HUD.

King County FY 2020 Income Limits Summary									
Median Income King County	FY 2020 Income Limit Category	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
\$113,300	Extremely Low (30%) Income Limits	\$25,100	\$28,650	\$32,250	\$35,800	\$38,700	\$41,550	\$44,400	\$47,300
	Very Low (50%) Income Limits	\$41,800	\$47,800	\$53,750	\$59,700	\$64,500	\$69,300	\$74,050	\$78,850
	Low (80%) Income Limits	\$66,700	\$76,200	\$85,750	\$95,250	\$102,900	\$110,500	\$118,150	\$125,750

The Agency agrees to use updated Income Guidelines which will be provided by the City.

Reports and Reporting Schedule

The Agency shall collect and report client information to the City quarterly and annually on a Service Unit Report to be provided by the City in the format requested by the City.

The Agency shall submit an Annual Demographic Data Report. The agency shall collect and retain the data requested on this form from the persons served through this contract. Data should be tracked in an ongoing manner and submitted annually no later than January 15 in the format requested by the City.

The Agency shall implement and track at least one measurable outcome for the program as presented in the application. Changes to the outcome presented in the application must be approved by the City prior to implementation. The Agency shall report the results of its outcome measure(s) annually on the Annual Outcome Data Report to be submitted by January 15 in the format requested by the City.

Public Information

In all news releases and other public notices related to projects funded under this Agreement, the Agency will include information identifying the source of funds as the City of Federal Way Human Services General Fund Program.

EXHIBIT B

COMPENSATION

Project Budget

The Agency shall apply the following funds to the project. The total amount of compensation pursuant to this Agreement shall not exceed Sixteen Thousand and 00/100 Dollars (\$16,000.00).

City of Federal Way Funds	2021	2022
City of Federal Way General Fund:	\$8,000.00	\$8,000.00
Total City of Federal Way Funds:	\$8,000.00	\$8,000.00

Reimbursement Requests and Service Unit Report forms shall be submitted no less frequently than quarterly and are due on the following dates:

1st Quarter: April 15 or within 10 days of notice to proceed, whichever is later;

2nd Quarter: July 15;

3rd Quarter: October 15; and

4th Quarter: Final Reimbursement Request and Service Unit Report forms due January 6; Demographic Data Report and Annual Outcome Data Report due January 15.

The Agency shall submit payment requests in the format requested by the City. Payment requests shall include a copy of the Service Unit Report.

Estimated Quarterly Payments:

2021

1st Qtr	\$2,000.00
2nd Qtr	\$2,000.00
3rd Qtr	\$2,000.00
4th Qtr	\$2,000.00

2022

1 st Qtr	\$2,000.00
2 nd Qtr	\$2,000.00
3 rd Qtr	\$2,000.00
4 th Qtr	\$2,000.00

Quarterly payment requests shall not exceed the estimated payment without prior written approval from the City. Estimated quarterly payments are contingent upon meeting or exceeding the above performance measure(s) for the corresponding quarter. This requirement may be waived at the sole discretion of the City with satisfactory explanation of how the performance measure will be met by year-end on the Service Unit Report.

CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: EDWARD BRYNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR FISCAL YEAR (FY) 2020

POLICY QUESTION: Should the City of Federal Way, Federal Way Police Department accept the MoU Contract for the Edward Bryne Memorial Justice Assistance Grant (JAG) Grant for FY 2020? Acceptance of grant requires no matching funds.

COMMITTEE: PARKS, RECREATION, HUMAN SERVICES AND PUBLIC SAFETY COUNCIL COMMITTEE – (PRHS&PSC)

MEETING DATE:
April 13, 2021

CATEGORY:

<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> City Council Business	<input type="checkbox"/> Resolution	<input type="checkbox"/> Other

STAFF REPORT BY: DIANE C. SHINES, CIVILIAN OPERATIONS MANAGER **DEPT:** POLICE

Attachments:

1. PRHS & PSC Staff Report
2. 2020 JAG Contract MOU
3. FY20 Justice Assistance Grant Program Award #2020-DJ-BX-0324 with footnotes- Executed.
4. Copy of Budget Detail Worksheet – 2020 JAG

Options Considered:

1. Approve the FY 2020 JAG Grant
2. Reject the FY 2020 JAG Grant

MAYOR'S RECOMMENDATION: Option 1.

MAYOR APPROVAL:

[Signature] 3/18/21
Committee
Initial/Date

[Signature] 3/18/21
Council
Initial/Date

DIRECTOR APPROVAL:

[Signature] 3/18/21
Initial/Date

COMMITTEE RECOMMENDATION: "I move to forward the Fiscal Year 2020 JAG Grant to the April 20, 2021 consent agenda for approval."

Kochmer via Zoom
Committee Chair

Assefa-Dewber via Zoom
Committee Member

Bruso via Zoom
Committee Member

PROPOSED COUNCIL MOTION: "I move approval of the Fiscal Year 2020 JAG Grant, and authorize the Mayor to execute said agreement."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

- ☐ APPROVED
- ☐ DENIED
- ☐ TABLED/DEFERRED/NO ACTION
- ☐ MOVED TO SECOND READING (ordinances only)

REVISED – 11/2019

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #

RESOLUTION #

CITY OF FEDERAL WAY
CITY COUNCIL COMMITTEE STAFF REPORT

DATE: March 15, 2021
TO: Parks, Recreation, Human Services and Public Safety Council Committee
VIA: Jim Ferrell, Mayor
FROM: Andy Hwang, Chief of Police
SUBJECT: FY 2020 Edward Byrne Memorial Justice Assistance (JAG) Grant Program – MOU Contract

Financial Impacts:

JAG funds support all components of the criminal justice system. JAG funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures. Project Award Allocation: \$42,546.

Background

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system. JAG funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

The City of Seattle is identified as the Fiscal Agent, submitting the joint application to the Bureau of Justice Assistance to request JAG program funds; and pursuant to the terms of the grant, the City of Seattle is to distribute grant funds to the County and one or more jurisdictions.

The City of Seattle (“City”) is submitting its Grant Award Document and Certifications Document for the Fiscal Year (FY) 2020 Byrne Justice Assistance Grant (JAG) Award per the guidance provided by the Department of Justice (“DOJ”), but continues its strong objection to certain conditions, specifically Conditions 31 through 41 and 70. Please note the prominent disclaimers pursuant to the September 26, 2019 order that permanently enjoined the DOJ from enforcing the challenged immigration–related grant conditions against U.S. Conference of Mayors members. *City of Evanston v. Barr*, -- F. Supp. 3d --, 2019 WL 4694734 (N.D. Ill. Sept. 26, 2019). The City is a member of the U.S. Conference of Mayors.

Acceptance of the FY 2020 Edward Byrne Memorial Justice Assistance Grant will ensure that services or projects under this Agreement will be conducted for the stated purpose of the Byrne Memorial Justice Assistance Grant (JAG) Program (42.U.S.C.3751(a.) The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions.

Purpose Area #4

D. Equipment					
Item	Computation				
<i>List and describe each item of equipment that will be purchased</i>	<i>Compute the cost (e.g., the number of each item to be purchased X the cost per item)</i>				
	# of Items	Unit Cost	Total Cost	Non-Federal Contribution	Federal Request
Supplies - General Chair replacement	18	\$500.00	\$9,000		\$9,000
Supplies - General Giveaways (stressball, children toys)	1	\$2,363.00	\$2,363		\$2,363
Computer Hardware - HP Laptop	1	\$1,507.00	\$1,507		\$1,507
CDU Protective Eyewear	20	\$200.00	\$4,000		\$4,000
Small Capacity Evidence Refrigerator	1	\$23,000.00	\$23,000		\$23,000
Total(s)			\$39,870	\$0	\$39,870
Narrative					
<p>The Civilian Operations Manager will be responsible for collecting and reporting performance measurs during the grant cycle.</p>					

Memorandum of Understanding -Contract

Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2020 Local Solicitation

Executed by

City of Seattle

Department Authorized Representative: Faye Landskov

610 5th Avenue

PO Box 34986

Seattle, WA 98124-4986

and

City of Federal Way, DUNS 968740139, hereinafter referred to as "Subrecipient"

JAG Grant Manager: Diane Shines

33325 8 Ave S

Federal Way, WA 98003

IN WITNESS WHEREOF, the parties have executed this Agreement by having their representatives affix their signatures below.

City of Federal Way

City of Seattle

Jim Ferrell, Mayor

Mark R. Baird, Chief Operating Officer
Seattle Police Department

Date: _____

Date: _____

Authorized by: *Edward Byrne Memorial Justice Assistance Grant (JAG) Program*

WHEREAS, the Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions; and

WHEREAS, the JAG Program supports all components of the criminal justice system, from multi-jurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives; and

WHEREAS, the United States Congress authorized \$644,184 in the Justice Assistance Grant (JAG) Program for jurisdictions in King County; and

WHEREAS, 11 jurisdictions in King County were required to apply for a JAG Program award with a single, joint application and 8 did; and

WHEREAS, the City of Seattle ("City"), as the identified Fiscal Agent, had DOJ submit the joint application to the Bureau of Justice Assistance on Aug 18, 2020 to request JAG Program funds; and

WHEREAS, based on the City's successful application, the Bureau of Justice Assistance has awarded \$644,184 to the City from these JAG Program funds; and

WHEREAS, pursuant to the terms of the grant whereby the City, as the identified Fiscal Agent for this award, is to distribute grant funds to co-applicants, the City intends to transfer some of the JAG funds it receives to those co-applicants; and

WHEREAS, the City is not obligated to continue or maintain grant funding levels for the JAG Program once grant funds have lapsed; and

WHEREAS, Subrecipients of JAG funds from the City should not anticipate the City will assume responsibility for any program costs funded by JAG once JAG funds are spent;

NOW THEREFORE, the parties hereto agree as follows:

This Interagency Agreement contains seven Articles:

ARTICLE I: TERM OF AGREEMENT:

The term of this Interagency Agreement shall be in effect from the date it is executed, until September 30, 2023 unless terminated earlier pursuant to the provisions hereof.

ARTICLE II: DESCRIPTION OF SERVICES

The services to be performed under this Agreement shall be conducted for the stated purposes of the Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a.) The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions. The JAG Program provides states and units of local governments with critical funding necessary to support a range of program areas including law enforcement; prosecution and court programs; prevention and education programs; corrections and community corrections; drug treatment and enforcement; crime victim and witness initiatives; and planning, evaluation, and technology improvement programs.

ARTICLE III: SPECIAL CONDITIONS

1. Funds are provided by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance solely for the purpose of furthering the stated objectives of the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The Subrecipient shall use the funds to perform tasks as described in the Scope of Work portion of this Agreement.
2. The Subrecipient acknowledges that because this Agreement involves federal funding, the period of performance described herein will likely begin prior to the City's receipt of appropriated federal funds. The Subrecipient agrees that it will not hold the City or the Department of Justice liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to the City's receipt and distribution of federal funds. In the event that the Department of Justice requires the City to repay awarded funds for failure to comply with Special Conditions 31 – 41 and 70 listed in Attachment A or withholds funds from the City for any other reason, the Subrecipient will repay the City any funds it received under this Agreement that the City is required to repay to the federal government. Subrecipient further acknowledges and agrees that the City may reject federal funds if it is required to comply with Special Conditions 31-41 and 70 as a prerequisite for receiving these funds. Subrecipient will not pursue the City for such funds but may be able to pursue the federal government.
3. This contract is funded with federal grant funds under CFDA 16.738. The grant is FY 2020 Justice Assistance Grant Program Award # 2020-DJ-BX-0324. All federal financial and grant management rules and regulations must be adhered to in the execution of this contract. Exhibit Attachment A is a copy of the federal award documents. All special conditions stated in the award documents apply to the execution of this

contract. All Subrecipients are assumed to have read, understood, and accepted the Award as binding.

4. The Subrecipient acknowledges that all allocations and use of funds under this agreement will be in accordance with the Edward Byrne Memorial Justice Assistance Grant (JAG) Program: FY 2020 Local Solicitation. Allocation and use of grant funding must be coordinated with the goals and objectives included in the Local Solicitation. All Subrecipients are assumed to have read, understood, and accepted the Local Solicitation as binding.
5. Subrecipient agrees to obtain a valid DUNS profile and create an active registration with the Central Contractor Registration (CCR) database no later than the due date of the Subrecipient's first quarterly report after a subaward is made.
6. The Subrecipient shall comply with all applicable laws, regulations, and program guidance. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R Part 2800 (together, the "Part 200 Uniform Requirements") apply to this 2020 award from the Office of Justice Programs (OJP).
7. The Subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit Requirements.
 - a. Non-Federal entities that expend \$750,000 or more in one fiscal year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Office of Management and Budget (OMB) Circular A-133- Audits of States, Local Governments, and non-Profit Organizations. Non-federal entities that spend less than \$750,000 a year in federal awards are exempt from federal audit requirements for that year, except as noted in Circular No. A-133, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
 - b. Subrecipients required to have an audit must ensure the audit is performed in accordance with Generally Accepted Auditing Standards (GAAS), as found in the Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General and the OMB Compliance Supplement. The Subrecipient has the responsibility of notifying the Washington State Auditor's Office and requesting an audit.
 - c. The Subrecipient shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any sub-recipients also maintain auditable records.
 - d. The Subrecipient is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report submitted to the Seattle Police Department. The Subrecipient must respond to requests for information or corrective action concerning audit

issues or findings within 30 days of the date of request. The City reserves the right to recover from the Subrecipient all disallowed costs resulting from the audit.

- e. If applicable, once any single audit has been completed, the Subrecipient must send a full copy of the audit to the City and a letter stating there were no findings, or if there were findings, the letter should provide a list of the findings. The Subrecipient must send the audit and the letter no later than nine months after the end of the Subrecipient's fiscal year(s) to:

Faye Landskov, JAG Program Manager
Seattle Police Department
610 5th Avenue
PO Box 34986
Seattle, WA 98124-4986
206-733-9163

- f. In addition to sending a copy of the audit, the Subrecipient must include a corrective action plan for any audit findings and a copy of the management letter if one was received. The Subrecipient shall include the above audit requirements in any subcontracts.
- g. The Subrecipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requirements, including, but not limited to, the provision of any information required for assessment or evaluation of activities within this agreement, and for compliance BJA reporting requirements.
- h. Suspension and Debarment: The Subrecipient certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions by any Federal department or agency. By signing and submitting this Agreement, the Subrecipient is providing the signed certification set out below. The certification this clause is a material representation of fact upon which reliance was placed when this transaction was entered into.

If it is later determined that the Subrecipient rendered an erroneous certification, the Federal Government and City may pursue available remedies, including termination and/or debarment. The Subrecipient shall provide immediate written notice to the City if at any time the Subrecipient learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The Subrecipient agrees by signing this Agreement that it shall not enter into any covered transaction with a person or subcontractor who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the City. The Subrecipient shall include the requirement in this section in any subcontracts.

ARTICLE IV: SCOPE OF WORK

The Scope of Work of this Agreement and the time schedule for completion of such work is as described in **Attachment B: JAG Budget Worksheet**, as approved by BJA. Attachment B is attached to and made part of this agreement.

The work shall, at all times, be subject to the City's general review and approval. The Subrecipient shall confer with the City periodically during the progress of the Work, and shall prepare and present such information and materials (e.g. a detailed outline of completed work) as may be pertinent, necessary, or requested by the City or BJA to determine the adequacy of the Work or Subrecipient's progress.

ARTICLE V: PAYMENT

1. Compensation

The Subrecipient shall be reimbursed on an actual cost basis. Compensation under this Agreement cannot exceed \$42,546.

The Subrecipient shall incur authorized allowable expenses in accordance with the Project Budget, as detailed in Attachment B.

The Subrecipient may request additional reimbursement up to the amount of interest accrued on their portion of the grant award. The City will provide quarterly statements to the Subrecipient, once the interest balance accrued equals at least \$1,000.

Reimbursements will not be made for interest accrued that is less than \$1,000.

Reimbursements can be requested, up to the total amount of interest accrued, after the initial quarterly statement has been sent, to perform tasks in accordance with the Project Budget, as detailed in Attachment B.

No travel or subsistence costs, including lodging and meals, reimbursed with federal funds may exceed federal maximum rates, which can be found at: <http://www.gsa.gov>.

2. Manner of Payment

The Subrecipient shall submit reimbursement requests not more than monthly, and at least quarterly. After the first quarter, monthly submission is preferred.

Requests are due no later than 30 days after the end of the period in which the work was performed. Reimbursement request forms are provided. Substitute forms are acceptable.

With each reimbursement request, the Subrecipient shall submit:

- Detailed spreadsheet of expenditures by task and related financial documents (timesheets, invoices)
- These documents and invoices must be kept on file by the Subrecipient and be made available upon request by the City or to state or federal auditors, for at least six years after the closure of the grant.

Reimbursement will not be processed without accompanying documentation for the corresponding costs. Once the above conditions are met, payment shall be made by the City to the Subrecipient.

Submit invoicing to	Submit Documentation to
Fiscal Accounts Payable Seattle Police Department 610 5 th Avenue PO Box 34986 Seattle, WA 98124-4986 SPDAP@seattle.gov	Faye Landskov, JAG Program Manager Seattle Police Department 610 5 th Avenue PO Box 34986 Seattle, WA 98124-4986 206-733-9163

Article VI. COOPERATION IN MONITORING AND EVALUATION.

1. SPD Responsibilities:


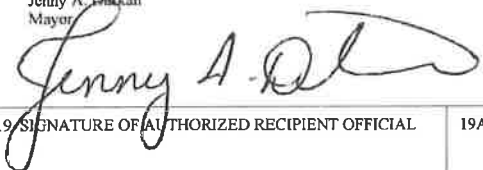
SPD shall monitor, evaluate and provide guidance and direction to Subrecipient in the conduct of Approved Services performed under this Agreement. SPD has the responsibility to determine whether Subrecipient has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of Subrecipient to ensure that Subrecipient has met such requirements. SPD may require Subrecipient to take corrective action if deficiencies are found. SPD will not monitor Subrecipient's adherence to Special Conditions 31-41 and 70 in the Grant Award and Special Conditions documents.

2. Subrecipient Responsibilities.

- a. Subrecipient shall permit SPD to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the applicable Notice of Prime Award, and Subrecipient agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.
- b. Subrecipient shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of SPD, DOJ, the U.S. Government Accountability Office or the Comptroller General of the United States and Subrecipient agrees to ensure to the extent possible the cooperation of its agents, employees and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.

ARTICLE VII: AMENDMENTS

No modification or amendment of the provisions hereof shall be effective unless in writing and signed by authorized representatives of the parties hereto. The parties hereto expressly reserve the right to modify this Agreement, by mutual agreement.

 <p>Department of Justice (DOJ) Office of Justice Programs Bureau of Justice Assistance</p>	<p>Grant</p>	<p>PAGE 1 OF 33</p>																
<p>1. RECIPIENT NAME AND ADDRESS (Including Zip Code)</p> <p>City of Seattle 700 Fifth Avenue, Suite 5800 Seattle, WA 98104-5017</p>	<p>4. AWARD NUMBER: 2020-DJ-BX-0324</p> <p>5. PROJECT PERIOD: FROM 10/01/2019 TO 09/30/2023 BUDGET PERIOD: FROM 10/01/2019 TO 09/30/2023</p> <p>6. AWARD DATE 09/19/2020</p> <p>7. ACTION Initial</p>																	
<p>2a. GRANTEE IRS/VENDOR NO. 916001303</p> <p>2b. GRANTEE DUNS NO. 790597814</p>	<p>8. SUPPLEMENT NUMBER 00</p> <p>9. PREVIOUS AWARD AMOUNT \$ 0</p>																	
<p>3. PROJECT TITLE Seattle and Disparate Agencies Group</p>	<p>10. AMOUNT OF THIS AWARD \$ 644,184</p> <p>11. TOTAL AWARD \$ 644,184</p>																	
<p>12. SPECIAL CONDITIONS</p> <p>THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).</p>																		
<p>13. STATUTORY AUTHORITY FOR GRANT</p> <p>This project is supported under FY20(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10101-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a)</p>																		
<p>14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)</p> <p>16.738 - Edward Byrne Memorial Justice Assistance Grant Program</p>																		
<p>15. METHOD OF PAYMENT</p> <p>GPRS</p>																		
<p>AGENCY APPROVAL GRANTEE ACCEPTANCE</p>																		
<p>16. TYPED NAME AND TITLE OF APPROVING OFFICIAL</p> <p>Katharine T. Sullivan Principal Deputy Assistant Attorney General</p>	<p>18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL</p> <p>Jenny A. Duckan Mayor</p> 																	
<p>17. SIGNATURE OF APPROVING OFFICIAL</p> 	<p>19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL</p> 	<p>19A. DATE</p>																
<p>AGENCY USE ONLY</p>																		
<p>20. ACCOUNTING CLASSIFICATION CODES</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>FISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>OFC.</th> <th>DIV. REQ.</th> <th>3UD.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>644184</td> </tr> </tbody> </table>		FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REQ.	3UD.	POMS	AMOUNT	X	B	DJ	80	00	00		644184	<p>21. VDJUGT3927</p>
FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REQ.	3UD.	POMS	AMOUNT											
X	B	DJ	80	00	00		644184											

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

OJP FORM 4000/2 (REV. 4-88)



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SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements *

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

** Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.*

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2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2020 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2020 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2020 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

4. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

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5. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after -- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2018, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

6. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

7. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

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8. Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

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9. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1) and (2).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) and (2) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1) and (2).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or

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any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1) and (2).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

10. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "personally identifiable information (PII)" (2 CFR 200.79) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

11. All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

12. Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.

Handwritten signature/initials



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13. Unreasonable restrictions on competition under the award; association with federal government

SCOPE. This condition applies with respect to any procurement of property or services that is funded (in whole or in part) by this award, whether by the recipient or by any subrecipient at any tier, and regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used. The provisions of this condition must be among those included in any subaward (at any tier).

1. No discrimination, in procurement transactions, against associates of the federal government

Consistent with the (DOJ) Part 200 Uniform Requirements -- including as set out at 2 C.F.R. 200.300 (requiring awards to be "manage[d] and administer[ed] in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements") and 200.319(a) (generally requiring "[a]ll procurement transactions [to] be conducted in a manner providing full and open competition" and forbidding practices "restrictive of competition," such as "[p]lacing unreasonable requirements on firms in order for them to qualify to do business" and taking "[a]ny arbitrary action in the procurement process") -- no recipient (or subrecipient, at any tier) may (in any procurement transaction) discriminate against any person or entity on the basis of such person or entity's status as an "associate of the federal government" (or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate), except as expressly set out in 2 C.F.R. 200.319(a) or as specifically authorized by USDOJ.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. The term "associate of the federal government" means any person or entity engaged or employed (in the past or at present) by or on behalf of the federal government -- as an employee, contractor or subcontractor (at any tier), grant recipient or subrecipient (at any tier), agent, or otherwise -- in undertaking any work, project, or activity for or on behalf of (or in providing goods or services to or on behalf of) the federal government, and includes any applicant for such employment or engagement, and any person or entity committed by legal instrument to undertake any such work, project, or activity (or to provide such goods or services) in future.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

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14. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

15. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

16. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

17. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

18. OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.

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19. Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

20. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

21. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

22. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

23. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

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24. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

25. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2020) The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at <https://ojp.gov/funding/Explore/FY20AppropriationsRestrictions.htm>, and are incorporated by reference here. Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

26. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

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27. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.



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28. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

29. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

30. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

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31. Authority to obligate award funds contingent on noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; unallowable costs; notification *

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded wholly or partly with award funds is subject to any "information-communication restriction."

B. Also, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient, at any tier, described in par. 1.A of this condition) that would be reimbursed wholly or partly with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) described in par. 1.A of this condition, is in compliance with the award condition entitled "Noninterference (within the funded 'program or activity') with federal law enforcement: information-communication restrictions; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient (at any tier) described in par. 1.A of this condition, may be subject to any information-communication restriction. Also, any subaward (at any tier) to a subrecipient described in paragraph 1.A of this condition must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient described in par. 1.A of this condition must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "Noninterference ... information-communication restrictions; ongoing compliance" award condition.

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the "Noninterference ... information-communication restrictions; ongoing compliance" condition.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference ... information-communication restrictions; ongoing compliance" condition are incorporated by reference as though set forth here in full.

** Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in Evanston v. Barr) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.*



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32. Authority to obligate award funds contingent on no use of funds to interfere with federal law enforcement: information-communication restrictions; unallowable costs; notification *

1. If the recipient is a "State," a local government, or a "public" institution of higher education:

A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is a State, a local government, or a public institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."

B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the program or activity of the recipient (or of any subrecipient, at any tier, described in paragraph 1.A of this condition) that would be reimbursed in whole or in part with award funds was subject to any information-communication restriction.

C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and each subrecipient (regardless of tier) described in paragraph 1.A of this condition, is in compliance with the award condition entitled "No use of funds to interfere with federal law enforcement: information-communication restrictions; ongoing compliance."

D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded program or activity of the recipient, or of any subrecipient (at any tier) described in paragraph 1.A of this condition, may be subject to any information-communication restriction. In addition, any subaward (at any tier) to a subrecipient described in paragraph 1.A of this condition must require prompt notification to the entity that made the subaward, should the subrecipient have such credible evidence regarding an information-communication restriction.

2. Any subaward (at any tier) to a subrecipient described in paragraph 1.A of this condition must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the program or activity of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any information-communication restriction.

3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the "No use of funds to interfere ... information-communication restrictions; ongoing compliance" award condition.

4. Rules of Construction

A. For purposes of this condition "information-communication restriction" has the meaning set out in the "No use of funds to interfere ... information-communication restrictions; ongoing compliance" condition.

B. Both the "Rules of Construction" and the "Important Note" set out in the "No use of funds to interfere ... information-communication restrictions; ongoing compliance" condition are incorporated by reference as though set forth here in full.

** Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in Evanston v. Barr) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.*



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SPECIAL CONDITIONS

33. Noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; ongoing compliance *

1. With respect to the "program or activity" funded in whole or part under this award (including any such program or activity of any subrecipient at any tier), throughout the period of performance, no State or local government entity, - agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status to/from DHS; or (2) a government entity or -agency from sending, requesting or receiving, or exchanging information regarding immigration status to/from/with DHS, or from maintaining such information. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof (including any public institution of higher education), but not any Indian tribe.

(2) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.

(5) "DHS" means the U.S. Department of Homeland Security.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.



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34. No use of funds to interfere with federal law enforcement: information-communication restrictions; ongoing compliance *

1. Throughout the period of performance, no State or local government entity, -agency, or -official may use funds under this award (including under any subaward, at any tier) to prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status to/from DHS; or (2) a government entity or -agency from sending, requesting or receiving, or exchanging information regarding immigration status to/from/with DHS, or from maintaining such information. Any prohibition (or restriction) that violates this condition is an "information-communication restriction" under this award.

2. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State, a local government, or a public institution of higher education, incurs to implement this condition.

4. Rules of Construction

A. For purposes of this condition:

(1) "State" and "local government" include any agency or other entity thereof (including any public institution of higher education), but not any Indian tribe.

(2) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).

(4) "Immigration status" means what it means under 8 U.S.C. 1373 and 8 U.S.C. 1644; and terms that are defined in 8 U.S.C. 1101 mean what they mean under that section 1101, except that "State" also includes American Samoa.

(5) "DHS" means the U.S. Department of Homeland Security.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

** Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in Evanston v. Barr) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.*

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SPECIAL CONDITIONS

35. Noninterference (within the funded "program or activity") with federal law enforcement: No public disclosure of certain law-enforcement-sensitive information *

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference: No public disclosure of federal law-enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no public disclosure may be made of any federal law-enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 -- without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3));

(2) the term "federal law-enforcement information" means law-enforcement-sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation-- (1) through any database, (2) in connection with any law enforcement partnership or -task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

(3) the term "law-enforcement-sensitive information" means records or information compiled for any law-enforcement purpose; and

(4) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any subrecipient (at any tier) that is a government entity.

B. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: information-communication restrictions; ongoing compliance" award condition are incorporated by reference as though set forth here in full.

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

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SPECIAL CONDITIONS

36. No use of funds to interfere with federal law enforcement: No public disclosure of certain law-enforcement-sensitive information *

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere: No public disclosure of federal law-enforcement information in order to conceal, harbor, or shield

Consistent with the purposes and objectives of federal law enforcement statutes and federal criminal law (including 8 U.S.C. 1324 and 18 U.S.C. chs. 1, 49, 227), no funds under this award may be used to make any public disclosure of any federal law-enforcement information in a direct or indirect attempt to conceal, harbor, or shield from detection any fugitive from justice under 18 U.S.C. ch. 49, or any alien who has come to, entered, or remains in the United States in violation of 8 U.S.C. ch. 12 – without regard to whether such disclosure would constitute (or could form a predicate for) a violation of 18 U.S.C. 1071 or 1072 or of 8 U.S.C. 1324(a).

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition--

(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3));

(2) the term "federal law-enforcement information" means law-enforcement-sensitive information communicated or made available, by the federal government, to a State or local government entity, -agency, or -official, through any means, including, without limitation-- (1) through any database, (2) in connection with any law enforcement partnership or task-force, (3) in connection with any request for law enforcement assistance or -cooperation, or (4) through any deconfliction (or courtesy) notice of planned, imminent, commencing, continuing, or impending federal law enforcement activity;

(3) the term "law-enforcement-sensitive information" means records or information compiled for any law-enforcement purpose; and

(4) the term "public disclosure" means any communication or release other than one-- (a) within the recipient, or (b) to any subrecipient (at any tier) that is a government entity.

B. Both the "Rules of Construction" and the "Important Note" set out in the "No use of funds to interfere with federal law enforcement: information-communication restrictions; ongoing compliance" award condition are incorporated by reference as though set forth here in full.

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

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37. Noninterference (within the funded "program or activity") with federal law enforcement: Notice of scheduled release *

SCOPE. This condition applies with respect to the "program or activity" that is funded (in whole or in part) by the award, as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. Noninterference with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual report to Congress on "the number of illegal alien[felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- within the funded program or activity, no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

B. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the "Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

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38. No use of funds to interfere with federal law enforcement: Notice of scheduled release *

SCOPE. This condition applies as of the date the recipient accepts the award, and throughout the remainder of the period of performance. Its provisions must be among those included in any subaward at any tier.

1. No use of funds to interfere with "removal" process: Notice of scheduled release date and time

Consonant with federal law enforcement statutes -- including 8 U.S.C. 1231 (for an alien incarcerated by a State or local government, a 90-day "removal period" during which the federal government "shall" detain and then "shall" remove an alien from the U.S. "begins" no later than "the date the alien is released from ... confinement"; also, the federal government is expressly authorized to make payments to a "State or a political subdivision of the State ... with respect to the incarceration of [an] undocumented criminal alien"); 8 U.S.C. 1226 (the federal government "shall take into custody" certain criminal aliens "when the alien is released"); and 8 U.S.C. 1366 (requiring an annual report to Congress on "the number of illegal alien[felons] in Federal and State prisons" and programs underway "to ensure the prompt removal" from the U.S. of removable "criminal aliens") -- no State or local government entity, -agency, or -official (including a government-contracted correctional facility) may use funds under this award to interfere with the "removal" process by failing to provide -- as early as practicable (see para. 4.C. below) -- advance notice to DHS of the scheduled release date and time for a particular alien, if a State or local government (or government-contracted) correctional facility receives from DHS a formal written request pursuant to the INA that seeks such advance notice.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual otherwise would have been released.

B. Applicability

(1) Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). If (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to allow for the advance notice that DHS has requested, it shall NOT be a violation of this condition to provide only as much advance notice as practicable.

(2) Current DHS practice is to use the same form for a second, distinct purpose -- to request that an individual be detained for up to 48 hours AFTER the scheduled release. This condition does NOT encompass such DHS requests for detention.

C. Both the "Rules of Construction" and the "Important Note" set out in the "No use of funds to interfere with federal law enforcement: Interrogation of certain aliens" award condition are incorporated by reference as though set forth here in full.

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and /0 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

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39. Noninterference (within the funded "program or activity") with federal law enforcement: Interrogation of certain aliens*

SCOPE. This condition applies with respect to the "program or activity" funded (wholly or partly) by this award, as of the date the recipient accepts the award, and throughout the rest of the award period of performance. Its provisions must be among those included in any subaward (at any tier).

1. Noninterference with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations--including 8 USC 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain" in the U.S., and 8 CFR 287.5(a), under which that power may be exercised "anywhere in or outside" the U.S.--within the funded program or activity, no State or local government entity, -agency, or -official may interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under sec. 101 of the Immigration and Nationality Act (INA) (8 USC 1101(a)(3)), except that, with respect to a juvenile offender, it means "criminal alien."

(2) The term "juvenile offender" means what it means under 28 CFR 31.304(f) (as in effect on Jan. 1, 2020).

(3) The term "criminal alien" means, with respect to a juvenile offender, an alien who is deportable on the basis of-

(a) conviction described in 8 USC 1227(a)(2), or

(b) conduct described in 8 USC 1227(a)(4).

(4) The term "conviction" means what it means under 8 USC 1101(a)(48). (Adjudication of a juvenile as having committed an offense does not constitute "conviction" for purposes of this condition.)

(5) The term "correctional facility" means what it means under 34 USC 10251(a)(7)) as of January 1, 2020.

(6) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that-

(a) is designed to prevent or to significantly delay or complicate, or

(b) has the effect of preventing or of significantly delaying or complicating.

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

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(7) "State" and "local government" include any agency or other entity thereof (including any public institution of higher education), but not any Indian tribe.

(8) A "public" institution of higher education is one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(9) "Program or activity" means what it means under 42 USC 2000d-4a.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

** Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in Evanston v. Barr) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.*

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40. No use of funds to interfere with federal law enforcement: Interrogation of certain aliens *

SCOPE. This condition applies as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award. Its provisions must be among those included in any subaward (at any tier).

1. No use of funds to interfere with statutory law enforcement access to correctional facilities

Consonant with federal law enforcement statutes and regulations -- including 8 USC 1357(a), under which certain federal officers and employees "have power without warrant ... to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States," and 8 CFR 287.5(a), under which that power may be exercised "anywhere in or outside the United States" -- no State or local government entity, -agency, or -official may use funds under this award to interfere with the exercise of that power to interrogate "without warrant" (by agents of the United States acting under color of federal law) by impeding access to any State or local government (or government-contracted) correctional facility by such agents for the purpose of "interrogat[ing] any alien or person believed to be an alien as to his [or her] right to be or to remain in the United States."

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions (e.g., training) designed to ensure compliance with this condition.

4. Rules of construction

A. For purposes of this condition:

(1) The term "alien" means what it means under section 101 of the Immigration and Nationality Act (INA) (8 USC 1101(a)(3)), except that, with respect to a juvenile offender, it means "criminal alien."

(2) The term "juvenile offender" means what it means under 28 CFR 31.304(f) (as in effect on Jan. 1, 2020).

(3) The term "criminal alien" means, with respect to a juvenile offender, an alien who is deportable on the basis of—

(a) conviction described in 8 USC 1227(a)(2), or

(b) conduct described in 8 USC 1227(a)(4).

(4) The term "conviction" means what it means under 8 USC 1101(a)(48). (Adjudication of a juvenile as having committed an offense does not constitute "conviction" for purposes of this condition.)

(5) The term "correctional facility" means what it means under the title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 USC 10251(a)(7)).

(6) The term "impede" includes taking or continuing any action, or implementing or maintaining any law, policy, rule, or practice, that—

(a) is designed to prevent or to significantly delay or complicate, or

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

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(b) has the effect of preventing or of significantly delaying or complicating.

(7) "State" and "local government" include any agency or other entity thereof (including any public institution of higher education), but not any Indian tribe.

(8) A "public" institution of higher education is defined as one that is owned, controlled, or directly funded (in whole or in substantial part) by a State or local government. (Such a public institution is considered to be a "government entity," and its officials to be "government officials.")

(9) "Program or activity" means what it means under 42 USC 2000d-4a.

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any public institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.

IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

41. Requirement to collect certain information from subrecipients *

Except as provided in this condition, the recipient may not make a subaward to a State, a local government, or a "public" institution of higher education, unless it first obtains from the proposed subrecipient responses to the questions identified in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)." All subrecipient responses must be collected and maintained by the recipient, consistent with document retention requirements, and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.

42. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

* Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in *Evanston v. Barr*) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.

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43. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

44. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

45. Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

46. Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

47. Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

48. Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.



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49. Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

50. Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

51. Verification and updating of recipient contact information

The recipient must verify its Point of Contact (POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

52. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

53. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

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54. Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

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55. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/ncpa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

56. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

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57. Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

58. Certification of body armor "mandatory wear" policies

If recipient uses funds under this award to purchase body armor, the recipient must submit a signed certification that law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

59. Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

60. Body armor - impact on eligibility for other program funds

The recipient understands that the use of funds under this award for purchase of body armor may impact eligibility for funding under the Bulletproof Vest Partnership (BVP) program, a separate program operated by BJA, pursuant to the BVP statute at 34 USC 10531(c)(5).

61. Reporting requirements

The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (<https://grants.ojp.usdoj.gov>). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (<https://bjapmt.ojp.gov/>). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

62. Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

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Department of Justice (DOJ)
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET**
Grant

PAGE 31 OF 33

PROJECT NUMBER 2020-DJ-BX-0324

AWARD DATE 09/19/2020

SPECIAL CONDITIONS

63. Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

64. JAG FY 2020 - Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2019 [BJA]

Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2019

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2019), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

65. Use of funds for DNA testing; upload of DNA profiles

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS.

No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA.

Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS.

66. Encouragement of submission of "success stories"

BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to a My BJA account at <https://www.bja.gov/Login.aspx> to access the Success Story Submission form. If the recipient does not yet have a My BJA account, please register at <https://www.bja.gov/profile.aspx>. Once registered, one of the available areas on the My BJA page will be "My Success Stories." Within this box, there is an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the BJA Success Story web page at <https://www.bja.gov/SuccessStoryList.aspx>.

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Department of Justice (DOJ)
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**AWARD CONTINUATION
SHEET
Grant**

PAGE 32 OF 33

PROJECT NUMBER 2020-DJ-BX-0324

AWARD DATE 09/19/2020

SPECIAL CONDITIONS

67. Withholding of funds: Disclosure of lobbying

The recipient may not obligate, expend, or draw down any funds under this award until it has provided to the grant manager for this OJP award a complete Disclosure of Lobbying Activities (SF-LLL) form, and OJP has issued a Grant Adjustment Notice to remove this special condition.

68. Withholding of funds: Disclosure of pending applications

The recipient may not obligate, expend, or draw down any award funds until: (1) it has provided to the grant manager for this OJP award either an "applicant disclosure of pending applications" for federal funding or a specific affirmative statement that no such pending applications (whether direct or indirect) exist, in accordance with the detailed instructions in the program solicitation, (2) OJP has completed its review of the information provided and of any supplemental information it may request, (3) the recipient has made any adjustments to the award that OJP may require to prevent or eliminate any inappropriate duplication of funding (e.g., budget modification, project scope adjustment), (4) if appropriate adjustments to a discretionary award cannot be made, the recipient has agreed in writing to any necessary reduction of the award amount in any amount sufficient to prevent duplication (as determined by OJP), and (5) a Grant Adjustment Notice has been issued to remove this condition.

69. Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not obligate, expend, or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

70. Withholding - DHS question attachment*

The recipient may not obligate, expend or draw down funds until the Office of Justice Programs has received and approved the required application attachment(s) described in the program solicitation as "Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)," and has issued a Grant Adjustment Notice (GAN) releasing this special condition.

71. Withholding of funds: Memorandum of Understanding

The recipient may not obligate, expend, or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

** Acceptance of FY 2020 JAG awards by U.S. Conference of Mayors members (as designated in Evanston v. Barr) shall not be construed as acceptance of Special Conditions 31 through 41 and 70 thereof. Nor, given the injunction, currently in effect, in the litigation, against inclusion of those conditions in FY 2020 JAG awards, shall Special Conditions 31-41 and 70 be enforced against the foregoing jurisdictions while that ruling is in effect.*

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Department of Justice (DOJ)
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 33 OF 33

PROJECT NUMBER 2020-DJ-BX-0324

AWARD DATE 09/19/2020

SPECIAL CONDITIONS

72. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

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CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: AGREEMENT BETWEEN THE WASHINGTON TRAFFIC SAFETY COMMISSION (WTSC) AND THE FEDERAL WAY POLICE DEPARTMENT TO PROVIDE GRANT FUNDING FOR TRAFFIC ENFORCEMENT

POLICY QUESTION: Should the City of Federal Way / Federal Way Police Department accept \$2,500.00 from the WTSC for Distracted Driving enforcement?

COMMITTEE: PARKS, RECREATION, HUMAN SERVICES & PUBLIC SAFETY COUNCIL COMMITTEE (PRHS&PSC)

MEETING DATE: April 13, 2021

CATEGORY:

- | | | |
|--|-------------------------------------|---|
| <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution | <input type="checkbox"/> Other |

STAFF REPORT BY: LIEUTENANT B. SCHULZ

DEPT: Police

Attachments:

1. PRHS&PSC Memo
2. IAA Between the WTSC and the Federal Way Police Department

Options Considered:

1. Accept Proposal
2. Reject Proposal

MAYOR'S RECOMMENDATION: Option 1.

MAYOR APPROVAL:

JL 3/15/21
Committee
Initial/Date

JL 3/15/21
Council
Initial/Date

DIRECTOR APPROVAL:

Andy 3/15/21
Initial/Date

COMMITTEE RECOMMENDATION: "I move to forward the proposed agreement for grant funds to the April 20, 2021, City Council Consent Agenda for approval"

Kochmer via Zoom
Committee Chair

ASSET-Devism
Vik Zoom
Committee Member

Benson via Zoom
Committee Member

PROPOSED COUNCIL MOTION: "I move approval of the proposed agreement for grant funds and authorize Chief Andy Hwang to sign the agreement."

(BELOW TO BE COMPLETED BY CITY CLERKS OFFICE)

COUNCIL ACTION:

- ☐ APPROVED
- ☐ DENIED
- ☐ TABLED/DEFERRED/NO ACTION
- ☐ MOVED TO SECOND READING (ordinances only)

REVISED – 11/2016

COUNCIL BILL #

1ST reading

Enactment reading

ORDINANCE #

RESOLUTION #

CITY OF FEDERAL WAY
CITY COUNCIL COMMITTEE STAFF REPORT

DATE: April 13, 2021
TO: Parks, Recreation, Human Services and Public Safety Council Committee
VIA: Jim Ferrell, Mayor
FROM: Andy J. Hwang, Chief of Police
SUBJECT: Interagency Agreement between the Washington Traffic Safety Commission and the
Federal Way Police Department

Financial Impact

There is no financial impact to the City. We would be reimbursed for overtime worked on distracted driving patrols.

The Federal Way Police Department enforces traffic laws throughout the city to reduce collisions, traffic related crime, and make our streets safer. This is completed by utilizing our day-to-day staffing level. However, increasing the number of officers on patrol will yield better enforcement results and likely have a larger and longer lasting impact on traffic issues that affect our citizens.

The Washington Traffic Safety Commission (WTSC) partners with the United States Department of Transportation (USDOT) and the National Highway Traffic Safety Administration (NHTSA) to offer an excellent opportunity for multijurisdictional high visibility emphasis (HVE) patrols throughout the year with funding from a grant. The goal is to reduce traffic related deaths and serious injuries through education of impaired driving, occupant protection, speeding, and distracted driving HVE patrols throughout the state. Simply put, this agreement would allow the City of Federal Way to put more of its police officers on the road with these traffic enforcement goals while knowing it will be reimbursed for the overtime expense.

The area of enforcement that this agreement emphasizes is distracted driving.

INTERAGENCY AGREEMENT

BETWEEN THE

Washington Traffic Safety Commission

AND

FEDERAL WAY POLICE DEPARTMENT

THIS AGREEMENT is made and entered into by and between the Washington Traffic Safety Commission, hereinafter referred to as "WTSC," and FEDERAL WAY 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, for traffic safety grant project **2021-AG-4109 King County Distracted Driving Campaign**, specifically to provide funding for the law enforcement agencies in WTSC Regions 7 and 8 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 (TQM) and/or the Law Enforcement Liaison (LEL) shall coordinate the SOW with the SUB-RECIPIENT with the goal of reducing traffic crashes.

Grant **2021-AG-4109 King County Distracted Driving Campaign** was awarded to the **Regions 7/8** to support collaborative efforts to conduct HVE activities. By signing this agreement, the SUB-RECIPIENT is able to seek reimbursement for approved straight time or 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. DISTRACTED DRIVING

- a. Distracted driving HVE events will be conducted using a team approach with designated spotters.
- b. SUB-RECIPIENT will participate in a King County Target Zero Task Force distracted driving emphasis campaign between July - September 2021 (specific dates TBD).

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.

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.

3.1. MILESTONES AND DELIVERABLES

Mobilization

On the Road, Off the Phone

Dates

July – September 2021

3.2. COMPENSATION

3.2.1. Compensation for the straight time or 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 Regions 7/8 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 straight time or overtime expenses (overtime expenses will be reimbursed 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 \$2,500 to the FEDERAL WAY POLICE DEPARTMENT 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 **FEDERAL WAY POLICE DEPARTMENT** as follows:

EMPHASIS PATROL

Distracted Driving Patrols (Section 402, CFDA 20.600)	\$2,500
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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 23 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 Regions 7/8 is:	The Contact for WTSC is:
Lt. Brigham Schulz Brigham.Schulz@cityoffederalway.com 253.835.6743	Sara Wood swood@kentwa.gov 253-856-5856	Erika Mascorro WTSC Program Manager emascorro@wtsc.wa.gov (360) 725-9882

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.

	WASHINGTON TRAFFIC SAFETY COMMISSION
_____ Signature	_____ Signature
_____ Printed Name	_____ Printed Name
_____ Title	_____ Title
_____ Date	_____ Date

CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: LAKEHAVEN UTILITY DISTRICT WATER MAIN EASEMENT

POLICY QUESTION: Should the City grant an easement to Lakehaven Utility District for water-mains on City Parks Department managed property?

COMMITTEE: PRHSPSC

MEETING DATE: April 13, 2021

CATEGORY:

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Consent | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution | <input type="checkbox"/> Other |

STAFF REPORT BY: Jason H. Gerwen, Parks and Facilities Deputy Director **DEPT:** Parks Department

Attachments: 1. Staff Report
2. 95% Plans – Lakehaven/Lakota- Water Main Relocation
3. Water main easement

Options Considered:

1. Approve the proposed water main easement.
2. Do not approve the proposed water main easement and provide direction to staff.

MAYOR'S RECOMMENDATION: Option 1.

MAYOR APPROVAL:

JG 4/1/21
Committee
Initial/Date

JG 4/1/21
Council
Initial/Date

DIRECTOR APPROVAL:

Jed 4/1/2021
Initial/Date

COMMITTEE RECOMMENDATION: "I move to forward the proposed Agreement to the proposed water main easement with Lakehaven Utility District to the April 20, 2021 consent agenda for approval."

Kochmar via Zoom
Committee Chair

Assess - Dwyer
Via Zoom
Committee Member

Barnes via Zoom
Committee Member

PROPOSED COUNCIL MOTION: "I move approval of the proposed water main easement with Lakehaven Utility District and authorize the Mayor to execute said agreement."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

- ☐ **APPROVED**
- ☐ **DENIED**
- ☐ **TABLED/DEFERRED/NO ACTION**
- ☐ **MOVED TO SECOND READING (ordinances only)**

REVISED – 11/2019

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #


RESOLUTION #

CITY OF FEDERAL WAY
MEMORANDUM

DATE: April 1, 2021

TO: City Council Members

VIA: Jim Ferrell, Mayor

FROM: Jason H. Gerwen, Parks & Facilities Deputy Director 

SUBJECT: Lakehaven Water Main Easement

Financial Impacts:

The revenue to the City for the Lakehaven Water Main Easement will be \$1.00 and will be credited to the General Fund. The cost to the City to receive the funds is \$0.00. Upon completion of the Lakehaven Water Main Easement, there will be no future costs.

Background Information:

The City of Federal Way Public Works Department is working to expand Dash Point Road via the Safe Route to Schools program. This expansion is going to necessitate that utilities be relocated. This expansion will require that Lakehaven Utility District will need to install a couple of water mains on the edge of Parks Department Property, specifically, Lakota Park. These water mains are currently in the Right-of-Way (ROW). The granting of the easement and the relocation of water mains on to City Parks Property will have no impact as to the park's current uses or functions.

Recording Requested By:

City of Federal Way
Jason H. Gerwen – Parks & Facilities Deputy Director
33325 8th Ave S
FEDERAL WAY, WA 98003

When Recorded Mail To:

33325 8th Ave S
FEDERAL WAY, WA 98003
ATTN: Jason H. Gerwen/Parks & Recreation Department

EASEMENT FOR WATER FACILITIES

Grantor (s): CITY OF FEDERAL WAY, a Washington Municipal Corporation
Grantee (s): Lakehaven Utility District, a Municipal Corporation of King County
Property Legal Description (abbreviated): Complete Legal Description indicated below.
Easement Legal Description: NE 1/4 OF SE 1/4 LESS POR NWLY OF ROBT MALTBY RD & SWLY OF CO RD # 980 & NLY OF DUMAS BAY RD LESS CO RDS & LESS NW LY 22 FT FOR RD PER REC #20160620000489
Temporary Construction Easement Legal Description: NE 1/4 OF SE 1/4 LESS POR NWLY OF ROBT MALTBY RD & SWLY OF CO RD # 980 & NLY OF DUMAS BAY RD LESS CO RDS & LESS NW LY 22 FT FOR RD PER REC #20160620000489
Assessor's Tax Parcel ID#(s): 1221039016

For and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, CITY OF FEDERAL WAY, a Washington municipal corporation, ("Grantor") grants, conveys and warrants to LAKEHAVEN UTILITY DISTRICT, a Municipal Corporation of King County, ("Grantee") for the purposes hereinafter set forth a permanent easement under, across and over certain real property (the "Property") located in Federal Way, Washington, legally described as follows:

EXHIBIT "A"

[Legal Description of Property]

PARCEL "A"

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 21 NORTH, RANGE 3 EAST, W.M., LYING SOUTHEASTERLY OF SW DASH POINT ROAD (ROBERT MALTBY ROAD), AND EASTERLY OF 21ST AVENUE SW, AND NORTHERLY OF SW 316TH STREET, IN THE CITY OF FEDERAL WAY, KING COUNTY, WASHINGTON. Except as may be otherwise set forth herein, Grantee's rights shall be exercised upon that portion of the Property ("Easement") legally described as follows:

EXHIBIT "B"
WATER EASEMENT

THAT PORTION OF THE HEREINAFTER DESCRIBED PARCEL "A", DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID PARCEL "A" AND A LINE THAT IS 30.00 FEET SOUTHERLY OF AND PARALLEL WITH THE CENTERLINE OF SOUTHWEST 312TH STREET;

THENCE NORTH 88° 29' 29" WEST ALONG SAID PARALLEL LINE, 118.08 FEET TO A LINE THAT IS 52.00 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE CENTERLINE OF SOUTHWEST DASH POINT ROAD (ROBERT MALTBY ROAD) AS DESCRIBED IN DEED RECORDED UNDER RECORDING NO. 20101210000907;

THENCE ALONG SAID PARALLEL LINE, SOUTHWESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 35° 34' 10" WEST, 1006.93 FEET, AN ARC DISTANCE OF 208.36 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID PARALLEL LINE, SOUTHWESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 35° 34' 10" WEST, 1006.93 FEET, AN ARC DISTANCE OF 15.00 FEET TO A POINT HEREINAFTER DESCRIBED AS 'POINT "A"';

THENCE SOUTH 35° 00' 02" EAST, 8.43 FEET;

THENCE NORTHEASTERLY ON A CURVE TO THE LEFT WHOSE CENTER BEARS NORTH 34° 37' 29" WEST,
1011.93 FEET, AN ARC DISTANCE OF 15.00 FEET;

THENCE NORTH 35° 00' 02" WEST, 8.45 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH:

BEGINNING AT SAID POINT "A", SAID POINT BEING ON SAID LINE THAT IS 52.00 FEET SOUTHEASTERLY OF AND PARALLEL WITH THE CENTERLINE OF SOUTHWEST DASH POINT ROAD (ROBERT MALTBY ROAD);

THENCE CONTINUING ALONG SAID PARALLEL LINE, SOUTHWESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS SOUTH 34° 42' 57" EAST, 1006.93

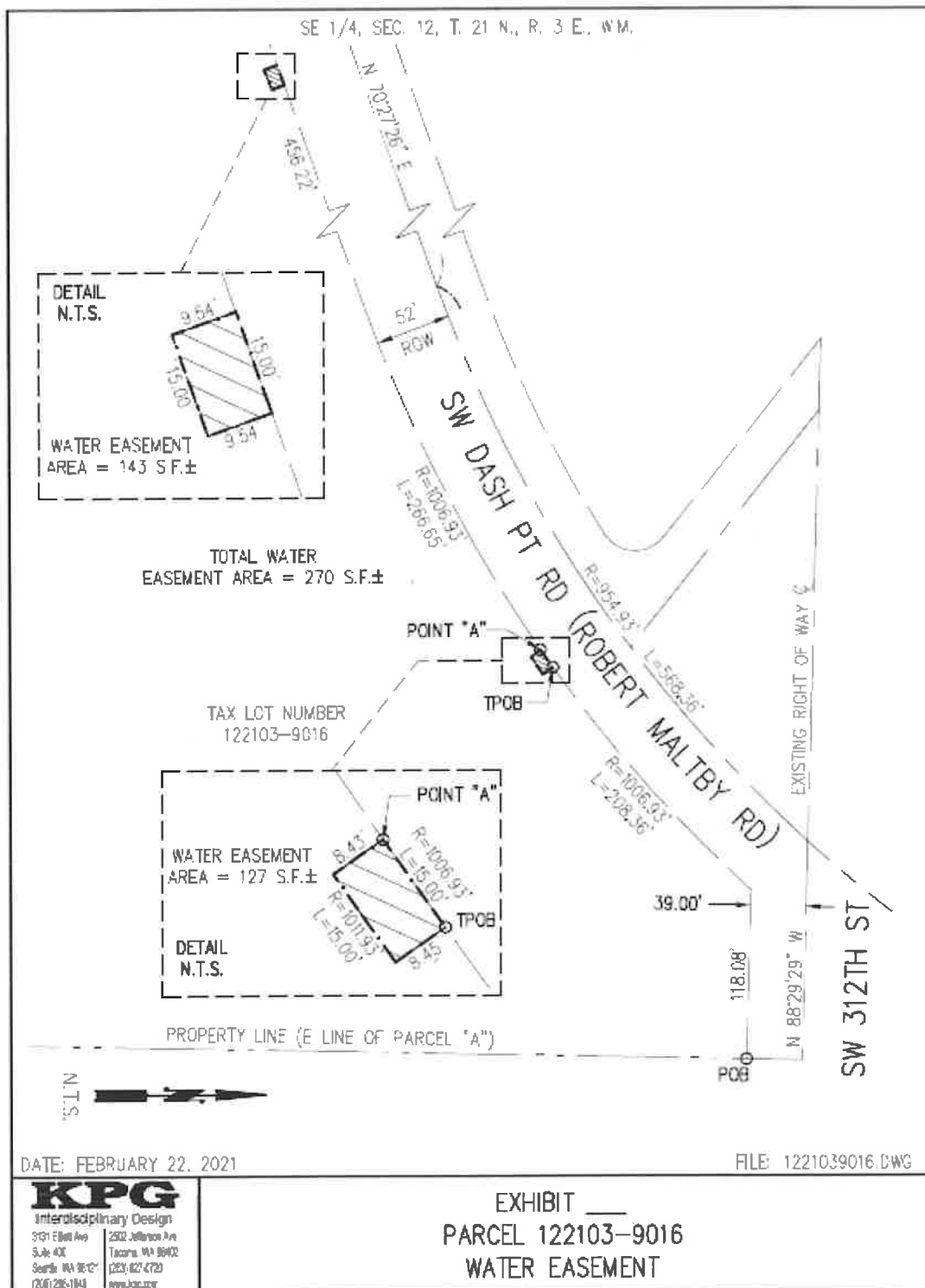
FEET, AN ARC DISTANCE OF 266.65 FEET;

THENCE CONTINUING ALONG SAID PARALLEL LINE, SOUTH 70° 27' 26" WEST,
456.22 FEET TO THE TRUE POINT OF BEGINNING

THENCE CONTINUING ALONG SAID PARALLEL LINE SOUTH 70° 27' 26" WEST,
15.00 FEET; THENCE SOUTH 19° 32' 34" EAST, 9.54 FEET;
THENCE NORTH 70° 27' 26" EAST, 15.00 FEET;

THENCE NORTH 19° 32' 34" WEST, 9.54 FEET TO THE TRUE POINT OF BEGINNING.

TOTAL WATER EASEMENT CONTAINING 270 SQUARE FEET, MORE OR LESS.



1. Purpose. Grantee and its agents, designees and/or assigns shall have the right, without prior notice to Grantor, at such times as deemed necessary by Grantee, to enter upon the Property to inspect, design, construct, reconstruct, operate, maintain, repair, replace, remove, grade, excavate, and enlarge all water mains, valves and meters and all appurtenances thereto ("Facilities"). Following the initial construction of the Facilities, Grantee may from time to time construct such additional facilities as it may require.

2. Access. Grantee shall have the right of access to the Easement over and across the Property to enable Grantee to exercise its rights hereunder by utilizing the improved driveway on the Property or by any other method mutually agreeable to Grantor and Grantee.

3. Obstructions; Landscaping. Grantee may from time to time remove vegetation, trees, or other obstructions within the Easement, and may level and grade the Easement to the extent reasonably necessary to carry out the purposes set forth in paragraph 1 hereof, provided, that following any such work, Grantee shall, to the extent reasonably practicable, restore the Easement to a condition similar to its condition prior to such work. Following the installation of the Facilities, Grantor may undertake any ordinary improvements to the landscaping of the Easement, provided that no trees or other plants shall be placed thereon, which would be unreasonably expensive or impractical for Grantee to remove and restore.

4. Grantor's Use of Easement. This Easement shall be exclusive to Grantee; provided, however, Grantor reserves the right to use the Easement for any purpose not inconsistent with Grantee's rights provided: further, that Grantor shall not construct or maintain any buildings or other structures on the Easement, that Grantor shall not perform grading or other form of construction activity on the Property, which would alter the functioning of the Facilities, and that Grantor shall not blast within fifteen (15) feet of the Easement.

5. Temporary Construction Easement. The Temporary Construction Easement shall remain in force during construction and until such time the Facilities have been accepted for operation by the Grantor, but in no event later than December 31, 2021.

6. Indemnification. All Parties agree to indemnify, defend, and hold the other Party, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Easement, including without limitation, any damage to the Easement area resulting from surface water flooding.

7. Successors and Assigns. The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.

DATED THIS _____ day of _____, 20__.

[signatures to follow]

GRANTOR:

City of Federal Way

By: _____

John Hutton

Parks & Recreation Director

STATE OF WASHINGTON)

) ss.

COUNTY OF _____)

On this day personally appeared before me, John Hutton, as Parks & Recreation Director for the City of Federal Way, to me known to be the individual described in and who executed the foregoing instrument, and on oath swore that he/she/they executed the foregoing instrument as his/her/their free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN my hand and official seal this _____ day of _____, 20__.

(typed/printed name of notary)

Notary Public in and for the State of
Washington.

My commission expires _____

CITY OF FEDERAL WAY

CITY COUNCIL

AGENDA BILL

SUBJECT: ORDINANCE: UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCES

POLICY QUESTION: Should the City criminalize the possession of controlled substances without a prescription?

COMMITTEE: PRHSPSC

MEETING DATE: April 13, 2021

CATEGORY:

☐ Consent

☒ Ordinance

☐ Public Hearing

☐ City Council Business

☐ Resolution

☐ Other

STAFF REPORT BY: J. Ryan Call, City Attorney

DEPT: Law

Attachments: 1. Staff Report
2. Ordinance

Options Considered:

1. Adopt the proposed ordinance.
2. Do not adopt the proposed ordinance and provide direction to staff.

MAYOR'S RECOMMENDATION: Option 1

MAYOR APPROVAL:

J. 3/30/21
Committee
Initial/Date

J. 3/30/21
Council
Initial/Date

DIRECTOR APPROVAL:

JRC 3/30/2021
Initial/Date

COMMITTEE RECOMMENDATION: *I move to forward the proposed ordinance to First Reading on April 20, 2021.*

Kochmer via Zoom
Committee Chair

Assaf-Dudman
Via Zoom
Committee Member

Benson via Zoom
Committee Member

PROPOSED COUNCIL MOTION(S):

FIRST READING OF ORDINANCE (APRIL 20, 2021): "I move to forward the proposed ordinance to the May 4, 2021 Council Meeting for second reading and enactment."

SECOND READING OF ORDINANCE (MAY 4, 2021): "I move approval of the proposed ordinance."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

COUNCIL ACTION:

☐ APPROVED

☐ DENIED

☐ TABLED/DEFERRED/NO ACTION

☐ MOVED TO SECOND READING (*ordinances only*)

REVISED – 11/2019

COUNCIL BILL #

First reading

Enactment reading

ORDINANCE #

RESOLUTION #

CPB # 201

CITY OF FEDERAL WAY
MEMORANDUM

DATE: March 22, 2021

TO: City Council Members

VIA: Jim Ferrell, Mayor

FROM: J. Ryan Call, City Attorney

SUBJECT: Misdemeanor Ordinance Prohibiting Unlawful Possession of Drugs

Background Information:

In *State v. Blake*, the Washington Supreme Court recently invalidated the state's simple drug possession statute on constitutional grounds. No. 96873-0, 2021 Wash. LEXIS 107, at *2 (Feb. 25, 2021). The basis for this decision was that given the potentially severe consequences of a felony drug conviction, it was unconstitutional to criminalize possession of drugs without the state proving criminal intent beyond a reasonable doubt. The statute laid out was a "strict liability" crime or, in other words, the state was not required to prove that the possession was intentional or knowing, merely that it was. While lower courts had developed an affirmative defense of unknowing possession that a defendant could prove at trial, the supreme court found that this shifting of the burden to a criminal defendant was unconstitutional. The court was particularly concerned with an innocent possessor who might unintentionally come into possession of drugs and then face criminal sanctions even though it was not a willful choice. A practical example of this would be if a person borrowed a car or a jacket from someone that had drugs in it. The practical effect of this court ruling is that the state cannot currently impose criminal sanctions against people possessing controlled substances.

The state legislature has the power to correct the error in the state criminal statute that was identified by the court by adding an intent element to the crime (i.e. the insertion of the word "knowingly" or similar language into the statute). As of the date of this writing, the state legislature has not done this. It remains unclear if it will choose to do so, though some legislatures are currently working on it.

Proposed City of Federal Way Ordinance:

The ordinance presented would create a local law prohibiting the knowing possession of controlled substances as defined in state law. Possession of marijuana would remain legal. Knowing possession of illegal substances would be a gross misdemeanor. Enforcement of this law would fall to FWPD and city prosecutors in municipal court.

Historically, the state legislature has “preempted the field” by fixing the penalties for illegal drug possession as felonies. With the gap created by the court’s decision in *Blake* and the state’s inaction in the area, a legal argument can be made that this is no longer the case. This leaves room for the city to set the penalty for possession of illegal drugs. Should the state take subsequent action to set a penalty for knowing drug possession, it is likely that this ordinance would again be preempted, and therefore, void.

Financial Impacts:

FWPD already investigates illegal possession of controlled substances, so the police costs associated with this proposed ordinance should already be budgeted. Increases on prosecution demand can be handled internally to a point, but may ultimately increase prosecution demand to the point that another prosecutor is required. The cost of new prosecutor is not a part of this proposal. Our intent is to limit prosecution under this new ordinance to a level that can be accommodated with existing resources.

Mayor’s Recommendation:

The mayor strongly recommends that the city council act to fill the gap in the law created by the *Blake* decision. Without the prohibition against possession of extremely harmful and addictive drugs such as cocaine, heroin, and methamphetamine, secondary crimes that directly impact our citizens will likely increase. Theft, violent crime, impaired driving, and many other crimes have a direct correlation to the use of these types of drugs. Mayor Ferrell believes that it is untenable to allow the consequence-free possession of these types of substances in a city of our size.

ORDINANCE NO. _____

**AN ORDINANCE of the City of Federal Way, Washington, relating to
misdemeanor possession of controlled substances; adding new section
6.10.130 to Chapter 6.10 FWRC.**

WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional can result in physical injury or death; and

WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional often exacerbates mental health conditions; and

WHEREAS, using controlled substances can alter a person's brain or brain chemistry with negative health consequences; and

WHEREAS, persons using controlled substances can become addicted to such substances resulting in negative physical and mental health consequences and damage to family and personal relationships; and

WHEREAS, the use of controlled substances without a prescription or medical supervision is more likely to result in addiction; and

WHEREAS, the use of controlled substances without a prescription is positively correlated with criminal behavior; and

WHEREAS, on February 25, 2021, the Washington State Supreme Court held in the case of *State v. Blake*, No. 96873-0, that RCW 69.50.4013(1) – the statute that criminalized the possession of a controlled substance without a prescription – exceeds the state's police power and violates the due process clauses of the state and federal constitutions because it creates a strict-liability felony offense; and

WHEREAS, the Supreme Court's ruling has the effect of eliminating any criminal penalties for the possession of a controlled substance without a prescription; and

WHEREAS, the Supreme Court's ruling also eliminates the authority of police officers to contact or arrest persons possessing a controlled substance without a prescription; and

WHEREAS, the lack of criminal penalties for the possession of controlled substances without a prescription will immediately result in an increase in the negative health and safety consequences associated with the use of controlled substances without a prescription; and

WHEREAS, the lack of enforcement authority of the police will interfere with the City's initiatives to address addiction and criminal activity associated with the use of controlled substances without a prescription by eliminating incentives for individuals to enter treatment or obtain necessary social services; and

WHEREAS, the effect of eliminating criminal penalties and police authority in regard to the possession and use of controlled substances without a prescription will have an immediate, direct, and negative impact on the health, safety, and welfare of the City's inhabitants.

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

Section 1. Chapter 6.10 of the Federal Way Revised Code is hereby amended to add a new section 6.10.130 to read as follows:

6.10.130 - Knowing possession of controlled substances prohibited

(1) It is unlawful for any person to knowingly possess a controlled substance other than marijuana unless the substance was obtained directly from, or in accordance with, a valid prescription or order of a practitioner while acting in the course of their professional practice.

(2) The terms “controlled substance” and “practitioner” as used in subsection 1 of this section are defined by RCW 69.50.101.

(3) Violation of subsection 1 of this section is a gross misdemeanor.

Section 2. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Federal Way hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clauses, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 3. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage and publication, as provided by law.

PASSED by the City Council of the City of Federal Way this _____ day of _____, 20__.

[signatures to follow]

CITY OF FEDERAL WAY:

JIM FERRELL, MAYOR

ATTEST:

STEPHANIE COURTNEY, CMC, CITY CLERK

APPROVED AS TO FORM:

J. RYAN CALL, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.:

