

CITY COUNCIL AGENDA
City Hall, 833 South Spruce Street
7:00 p.m. January 26, 2017

CALL TO ORDER:

Mayor Sexton
Council Members: Aslett, Bieche, J. DeGloria, R. DeGloria, Edmundson, Loving and Montgomery
Staff: Blaine, Bloodgood, Dempsey, Erickson, Harrison, Hawes, Brad Johnson, Brittany Johnson, L. Johnson, Moser, Pulst, Schwetz, Sherwood, Sinclair, Van Wieringen, Ward, Yengoyan, and Zitkovich.

MINUTES:

City Council Meeting January 12, 2017

AUDIT OF BILLS:

PUBLIC COMMENTS:

COUNCIL COMMENTS:

MAYOR'S UPDATE:

PROCLAMATION:

SPECIAL PRESENTATION:

Department of Ecology Award – Burlington Wastewater Treatment Plant

OFFICERS REPORTS:

TBD

UNFINISHED BUSINESS:

CONSENT AGENDA:

NEW BUSINESS:

- 1) Interlocal Drug Task Force Agreement
- 2) Bid Award & Agreement – Lighting Fixtures at Wastewater Treatment Plant
- 3) Update to Burlington Municipal Code – Contract with Mike Connelly

FUTURE WORKSHOP:

EXECUTIVE SESSION:

- An Executive Session may be held to discuss Personnel, Litigation, and/or Land Acquisition.

ADJOURNMENT:

MEETINGS:

- 1) DOWNTOWN BURLINGTON ASSOCIATION: Wednesday **January 25, 2017** 9:00 a.m.
Burlington Chamber/VIC, 520 E Fairhaven
- 2) AUDIT & FINANCE COMMITTEE: Thursday **January 26, 2017** 4:00 p.m.
City Hall, 833 S Spruce St
- 3) HISTORICAL PRESERVATION BOARD: Tuesday **January 31, 2017** 5:00 p.m.
Parks & Recreation, 900 E Fairhaven
- 4) PARKS ADVISORY BOARD: Monday **February 6, 2017** 5:30 p.m.
Parks & Recreation, 900 E Fairhaven
- 5) LIBRARY BOARD: Tuesday **February 7, 2017** 6:00 p.m.
Burlington Library, 820 E Washington

January 2017

| January 2017 | | | | | | | February 2017 | | | | | | |
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| Jan 1, 17 | 2 | 3 | 4 | 5 | 6 | 7 |
| | | 6:00pm Library Board (Library) | | | | |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| | 5:30pm 6:30pm Parks Advisory Board Meeting (Parks & Recreation Office) | 4:00pm Public Safety Committee (Public Safety Building) | | 4:00pm Audit & Finance Committee (City Hall) 7:00pm Council Meeting | | |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| | | 4:00pm Public Works Committee (Engineering Conf Room) | 1:00pm SKAT Board (Burlington City Hall) 7:00pm 9:00pm Planning Commission (City Council Chambers) | | | |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| | | | 9:00am 10:00am Downtown Burlington Association (Visitor Information Center/Chamber of | 4:00pm Audit & Finance (City Hall) 7:00pm Council Meeting | | |
| 29 | 30 | 31 | Feb 1 | 2 | 3 | 4 |
| | | 5:00pm 6:00pm Historical Preservation Board (Parks & Recreation Conference Room) | | | | |

Jan 1 - 7

Jan 8 - 14

Jan 15 - 21

Jan 22 - 28

Jan 29 - Feb 4

February 2017

February 2017

March 2017

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| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
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| Jan 29 | 30 | 31 | Feb 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| | 5:30pm Parks Board (Parks & Rec Dept) - Judy Sheahan | 6:00pm Library Board (Library) | | 4:00pm Audit & Finance Committee (City Hall) 7:00pm Council Meeting | | |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| | | 4:00pm Public Safety Committee (Public Safety Building) | 1:00pm SKAT Board (Burlington City Hall) 7:00pm 9:00pm Planning Commission (City Council Chambers) | | | |
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| 26 | 27 | 28 | Mar 1 | 2 | 3 | 4 |
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Jan 29 - Feb 4

Feb 5 - 11

Feb 12 - 18

Feb 19 - 25

Feb 26 - Mar 4

January 12, 2017

CALL TO ORDER:

Mayor Steve Sexton called the meeting to order at 7:00 p.m., with the Pledge of Allegiance. Council members present: Bill Aslett, Joe DeGloria, Rick DeGloria, and Ted Montgomery. Staff present: Bryan Harrison, Geoff Hawes, Brittany Johnson, Brad Johnson, Tom Moser, Renee Sinclair, Bill Van Wieringen, Sarah Ward, and Levon Yengoyan.

A motion was made to excuse **Councilors Bieche/Edmundson/Loving** by **Councilors Aslett/J.DeGloria**. All in favor; motion carried.

MINUTES:

A motion was made to approve the minutes of the December 20, 2016 council meeting by **Councilors R. DeGloria/Aslett**. All in favor; motion carried.

AUDIT OF BILLS:

A motion was made by **Councilors R. DeGloria/Aslett** to approve Accounts Payable checks numbered 35018 - 35030 in the amount of \$29,143.42; December 31st payroll checks numbered 34991 – 35017 in the amount of \$533,686.61. All in favor; motion carried.

PUBLIC COMMENTS:

There were no Public Comments.

COUNCIL COMMENTS:

There were no Council Comments.

MAYOR'S UPDATE:

Mayor Sexton apologized to City Council for the article published in the Skagit Valley Herald that provided information that the council wasn't aware of. **Sexton** notified council that City staff had just completed the ICS 300 training this week and the ICS 400 training will take place in March.

SPECIAL PRESENTATION:

Police Chief Bill Van Wieringen awarded Meritorious Service Awards to Officers Trevor Grant, Paul Lewis, and Josh Murdock for their response to the active shooter at the Cascade Mall on September 23rd, 2016 and to Officer Preston Payne for his response to the Officer McClaughry shooting incident on December 20, 2016.

Councilor Bieche arrived at 7:09 p.m.

January 12, 2017

Police Chief Bill Van Wieringen thanked training officers Sergeant Rogge and Detective Hofkamp and Officer David Goss for training the officers and described how beneficial the training was in an actual incident.

Police Chief Bill Van Wieringen thanked the Mount Vernon Police Department for the use of their department during the Cascade Mall incident and awarded Certificates of Appreciation to the SMART team for their response and assistance with the incident at the Cascade Mall. **Chief Van Wieringen** was developed four years ago and the best decision the law enforcement community has made. He stated that the organization could never be fully repaid for their efforts. **Mayor Sexton** thanked all who showed up on September 23rd and stated he was damn proud of the police department and the men and women who serve as officers.

OFFICER'S REPORTS:

Public Works Director Marv Pulst acknowledged the great work of the streets department during the periods of snow and ice. He stated that **Streets Supervisor Travis Schwetz** was out on Christmas morning sanding Burlington Boulevard. **Pulst** stated that new reflectors were added to the Anacortes/Gilkey roundabout to light up the roundabout and make it more visible to increase safety. Discussion was held on the safety of the roundabout and how it could be improved.

IT Manager Geoff Hawes stated that he ordered eight tablets for the City Council to access their council agendas electronically and their email. A date will be set for orientation for the new tablets. **Hawes** stated that the rewiring project was complete at the Parks & Recreation Department. There was very little outage time and the staff is pleased with the results.

City Administrator Bryan Harrison briefed council on the Mayor's Exchange regarding the meeting with Representative Jeff Morris on Wednesday, January 18th. **Harrison** stated that a community reception has been scheduled for January 18th for a meet and greet with the Parks & Recreation Director. The panel interviews for the position will be held on Thursday, January 19th. **Harrison** stated the EDASC dinner will be held on January 26th, the same evening as council, and if council would like to attend they would need to move to reschedule the meeting.

Councilor Bieche notified the council and city staff that she will not be at the council meeting on January 26th.

January 12, 2017

NEW BUSINESS:

RESOLUTION AMENDING THE DUAL INSURANCE INCENTIVE AGREEMENT

City Administrator Bryan Harrison stated the Resolution 12-2013 was passed providing employees' with an incentive program allowing them to opt out of medical insurance for their spouse and dependents if equivalent insurance was provided and the cash savings was split between the employees' and the City. There has been confusion regarding the types of insurance eligible and this resolution will define the eligible insurance and remove Medicaid insurance and state provided insurance.

A motion was made to approve the attached proposed resolution amending the Dual Insurance Incentive and authorize the Mayor's signature by **Councilors J. DeGloria/Montgomery**.

BID & CONTRACT AWARD DIRECTIONAL BORING PROJECT

Public Works Director Marv Pulst stated that this project has been budgeted within the 2017 Capital Fund. Economic Development funding from Skagit County will cover 100% of the project cost. The project consists of installing conduit for fiber by directional bore throughout the City. The bids for this project were opened last week and the low bidder was Trenchless Construction Services in the amount of \$223,727.00

A motion was made to award the bid and agreement to Trenchless Construction Services for the directional boring project and authorize the Mayor's signature by **Councilor J. DeGloria/Aslett**. All in favor; motion carried.

ASSISTANCE TO THE FIREFEIGHTERS (AFG) GRANT APPLICATION

Fire Chief Levon Yengoyan stated that the Burlington Fire Department is seeking to continue the application processes for the AFG federal program regarding three grants with funding award scheduled for 2017. The department is seeking to acquire an additional grant to upgrade the fire station with a Source Capture Exhaust system, purchase additional safety equipment, and funds to support additional IFSAC II Firefighter training. The department is also seeking to participate in two regional grants with neighboring departments that would purchase Extrication Equipment and Mobile Training Props. If awarded the City's match is 5% for the individual grant with 95% federal share and 10% for each regional grant with 90% federal share.

A motion was made to approve the Burlington Fire Department to apply for three AFG grants to be awarded in 2017 for the acquisition of a Fire Station Apparatus Bay Source Capture Exhaust System and safety equipment, and participation in two regional grants with neighboring departments for Extrication Rescue Equipment and Mobile Training

January 12, 2017

Props by **Councilors J. DeGloria/R. DeGloria**. **Councilors Aslett/Montgomery** in favor, **Councilor Bieche** opposed; motion carried.

APPOINTMENT OF PUBLIC DEFENSE AUDITOR REVIEW PANEL

City Administrator Bryan Harrison reviewed history of the court appointed Public Defense Supervisor and the expiration date. The cities of Mount Vernon and Burlington need to appoint at a Public Defense Auditor to monitor and advise the cities regarding issues pertaining to public defense post court appointed supervision. Council's role is to appoint the review committee members and to approve the final contract with the selected candidate. Discussion was had regarding who would be the council representative. **Councilor R. DeGloria** stated he would be willing to participate.

A motion was made to approve the Public Defense Auditor review and selection committee process by **Councilors R. DeGloria/Aslett**. All in favor; motion carried.

2017 COUNCIL COMMITTEE ASSIGNMENTS

City Administrator Bryan Harrison reviewed the council committee assignments and asked council if they would like any changes to be made. He also stated that council needed to vote for a Mayor Pro Temp and an Investment Chair.

A motion was made by **Councilors Montgomery/J. DeGloria** to nominate **Councilor R. DeGloria** as Mayor Pro Temp. All in favor; motion carried.

A motion was made by **Councilors R. DeGloria/Aslett** to nominate **Councilor J. DeGloria** as Investment Chair. All in favor; motion carried.

Councilor J. DeGloria requested to be removed from the Public Safety Committee; **Councilor Aslett** stated he would replace him.

Councilor Montgomery requested to be removed as the alternate for the Audit & Finance Committee; **Councilor Aslett** stated he would replace him.

A motion was made to accept the Mayor's 2017 committee assignments for those positions that require confirmation by council with the discussed changes applied by **Councilors J. DeGloria/Bieche**. All in favor; motion carried.

UPDATE TO THE BURLINGTON MUNICIPAL CODE – CONTRACT WITH MIKE CONNELLY

City Administrator Bryan Harrison recommended that council table this item as City Attorney Leif Johnson is absent from the meeting. No action was taken.

January 12, 2017

COLLECTIVE BARGAINING AGREEMENT: TEAMSTERS 231 – CLERICAL EMPLOYEES AND RECORDS TECHNICIANS

City Administrator Bryan Harrison reviewed the proposed bargaining agreement dated July 1, 2016 – December 31, 2019. The negotiation teams representing the union and management have achieved a tentative agreement on the CBA. Harrison reviewed the terms and conditions of the proposed agreement. Discussion was had regarding financial impact to the 2017 budget and effect of the contract on future years.

A motion was made to approve the Collective Bargaining Agreement with Teamsters 231 – Clerical Employees and Records Technicians and authorize the Mayor's signature by Councilors J. DeGloria/Aslett. All in favor; motion carried.

COLLECTIVE BARGAINING AGREEMENT: TEAMSTERS 231 – PUBLIC WORKS DIVISION

City Administrator Bryan Harrison reviewed the proposed bargaining agreement dated July 1, 2016 – December 31, 2019. The negotiation teams representing the union and management have achieved a tentative agreement on the CBA. Harrison reviewed the terms and conditions of the proposed agreement. Discussion was had regarding financial impact to the 2017 budget and effect of the contract on future years.

A motion was made to approve the Collective Bargaining Agreement with Teamsters 231 – Public Works Division and authorize the Mayor's signature by Councilors Montgomery/J. DeGloria. All in favor; motion carried.

APPROVAL OF PURCHASE OF CHEVROLET TAHOE POLICE PACKAGE PATROL VEHICLES BUDGETED FOR 2017

Police Chief Bill Van Wieringen stated that council approved the purchase of two new police package Chevrolet Tahoe Patrol vehicles in the 2017 budget. Bud Clary Chevrolet was awarded the state bid for the sale of this brand of patrol vehicles for 2017. A total of \$104,000 was budgeted for these vehicles and that amount covers the purchase of the vehicles as well as the teardown costs of the old vehicles and the buildup cost of the new ones. The purchase price is \$93,598.12. Discussion was had regarding the need to order the vehicles at this time, the option of waiting to purchase mid-year or wait a month or two and how that affects the ordering and timing of receiving the vehicles. Councilor Aslett suggested that this be held off for a month or two to allow council to review revenues; revenues to be provided by Director of Budgeting & Accounting Renee Sinclair at the second council meeting in December. Item was tabled until the February 9th council meeting.

APPROVAL OF PURCHASE OF 2017 FORD INTERCEPTOR BUDGETED FOR 2017

This item was tabled until the February 9th council meeting.

COUNCIL CHAMBERS

CITY HALL

BURLINGTON, WA

January 12, 2017

EXECUTIVE SESSION

There was no Executive Session.

ADJOURNMENT:

Mayor Sexton adjourned the meeting at 8:18 p.m.

Renee Sinclair
Director of Budget & Accounting

Steve Sexton
Mayor



ITEM #: 1

CHECK ONE:

NEW BUS.

OLD BUS.

AGENDA ITEM

Council Date: January 26, 2017 Subject: Interlocal Drug Task Force Agreement

Attachments: Proposed Interlocal Agreement Public Hearing Required: YES () NO (X)

SUMMARY

The Federal Equitable Sharing program requires that a new interlocal agreement for the local Drug Task Force be signed annually. Our Department has been involved with the local task force in one form or another since inception. The last agreement was signed in 2008.

RECOMMENDATION

I motion to approve the proposed interlocal Drug Task Force agreement and approve the Mayor's signature.

**DRUG ENFORCEMENT
MULTI-JURISDICTIONAL TASK FORCE
INTERLOCAL AGREEMENT**

This Interlocal Agreement is entered into pursuant to the authority provided to each party under federal and state law and the state constitution including the provisions of RCW 39.34, between the City of Mount Vernon, the City of Anacortes, the City of Burlington, the City of Sedro-Woolley, Skagit County, San Juan County, Swinomish Indian Tribal Community, and the Washington State Patrol.

PROBLEM STATEMENT

Drug traffickers and the crime they generate do not respect jurisdictional boundaries of municipalities and counties. Law enforcement agencies have scarce resources to handle an increasing and pervasive need and responsibility for investigations involving controlled substances and crimes connected with drug abuse, including human trafficking, illegal gang activities, residential and commercial burglary, robbery, assault, computer crime, theft and forgery, and homicide.

Skagit and San Juan counties continue to experience a wide variety of crime that is fueled by drug abuse, including an ongoing problem with methamphetamine and a recent resurgence in heroin abuse. The increase in drug-related crime arises from an increase in local population and changing drug trends and is consistent with national trends that reveal a greater number of crimes committed by drug users and traffickers. From all indications, nationwide drug-fueled crimes, including crime caused by the current methamphetamine and heroin epidemics, will continue and will require ongoing resource commitment. Additionally, the increase in methamphetamine labs and dump sites continues to pose significant hazards to public health.

Since the late 1980s, the Skagit County Interlocal Drug Enforcement Task Force (Task Force) has successfully helped to reduce drug trafficking and related crime, in Skagit and San Juan counties by sharing resources and helping to direct scarce resources toward concentrated and coordinated law enforcement. This has led to numerous arrests for the sale and manufacture of controlled substances, removed a significant amount of controlled substances from the street, and identified sites for decontamination of hazardous chemicals. From all indications nationwide, the methamphetamine and heroin epidemics will continue and will require ongoing resource commitment.

Multi-agency Task Force operations have proven effective at all levels of investigation. An intensive and concentrated effort directed at offenders can result in significant crime reductions far in excess of the results of additional staffing devoted to traditional police patrol functions and/or investigative units.

NEEDS STATEMENT

The criminal justice system must do its part to reduce drug abuse and related problems in our communities. The Task Force's purpose is to reduce drug crime, drug abuse, and related problems through coordinated and concentrated effort, initiating and conducting drug investigations at all levels possible, and enforcing the criminal provisions of the Uniform Controlled Substance Act, chapter 69.50 RCW.

PROJECT DESCRIPTION

Nationwide, multi-agency task forces have proven their ability to make significant impacts on crime. This integrated law enforcement approach to investigations has been proven throughout the country as a positive approach to combating the increasing lawlessness that surrounds the abuse of controlled substances within our society. Such units are an extremely efficient use of law enforcement funding.

The Task Force was established on July 1, 1991, and has had a major impact on reducing drug trafficking and drug-related crimes. The Task Force is comprised of personnel assigned from law enforcement agencies that are parties to this agreement. The cost effectiveness of the Task Force is enhanced by the participation of the County Prosecutor's Office and Swinomish Indian Tribal Community. Consistent with agency minimum staffing requirements, one full-time investigative person will be assigned from each of the following agencies:

1. Mount Vernon Police Department;
2. Burlington Police Department;
3. Anacortes Police Department;
4. Skagit County Sheriff's Office; and
5. Washington State Patrol.

Participating agencies may assign additional officers on a full or part-time basis.

DEFINITIONS

The following terms shall have the following meanings, unless the context indicates otherwise:

1. "Applicant Agency" means the agency (Skagit County Sheriff's Office) responsible for applying for and administering grant funds and other monies.
2. "Agency with Primary Jurisdiction" means the law enforcement department within whose local geographical jurisdiction a drug investigation is taking place.

3. “Assisting Agency” means any or all law enforcement departments contacted for mutual aid by an Agency with Primary Jurisdiction.
4. “Task Force” means the consortium of officers from the law enforcement departments that is responsible for carrying out the terms of grants and drug investigations.

5.

TASK FORCE TASKS AND OBJECTIVES

The Task Force contemplates conducting investigations centering on trafficking and manufacturing of controlled substances to impact dealers at all levels, with the primary focus on mid- and upper-level dealers and persons engaged in crimes that further the abuse of controlled substances. The Task Force’s objectives are to:

1. Identify, arrest, and assist in the prosecution of drug dealers;
2. Identify and seize unlawful marijuana grow operations;
3. Intercept illegal drugs and supplies in transit to or through Skagit and San Juan counties;
4. Identify and eliminate clandestine drug laboratories;
5. Seize assets and restrict use of structures known to be used by drug dealers and manufacturers;
6. Impact trafficking organizations such as gangs and human traffickers that promote the use of controlled substances; and
7. Assist in the resolution of major crimes that are fueled by controlled substances.

SECTION 1 – PURPOSE

The participating jurisdictions may:

1. Execute any and all necessary documents to obtain grant funds available under the Justice Assistance Act and similar federal programs for the purpose of establishing and supporting a multi-jurisdictional task force;
2. When required, authorize personnel from their respective law enforcement departments to participate in Task Force activities according to the work plan established in the application for grant funds; and
3. Enter into – or authorize personnel from their law enforcement departments to enter into – operation agreements, such as those pursuant to the Washington Mutual Aid

Peace Officers Act, chapter 10.93 RCW, if not already established, to enable agency officers and personnel to participate in Task Force activities.

SECTION 2 – EFFECTIVE DATE AND DURATION

This Agreement shall commence when fully executed by the participating jurisdictions and shall remain in effect until amended or terminated. When commenced, this Agreement shall supersede in-full all prior Agreements heretofore adopted by the parties relevant to the formation and operation of the Task Force.

SECTION 3 – FINANCING AND ASSETS

The Task Force will be funded by grants, including the Federal Justice Assistance Grant, the sale of seized assets, forfeited currency, funds received from the Department of Justice Asset Forfeiture Program, and similar sources, and may be supplemented by local funds. The Executive Board shall establish an annual budget. The Executive Board's chair shall account for Task Force Expenditures.

All cash seizures made by the Task Force shall, upon forfeiture, go to the Skagit County Interlocal Drug Fund to be made available to the Task Force for investigative use.

Forfeited assets seized through Task Force operations shall be retained by the Task Force, as the "seizing law enforcement agency" in accordance with RCW 69.50.505. In the event the Task Force is disbanded, task force equipment obtained from seizures will be held as pool equipment by the Skagit County Sheriff. However, if only one agency terminates from the Task Force, equipment derived from seizures will remain with the Task Force.

SECTION 4 – ADMINISTRATION

The Skagit County Sheriff's Office is the applicant agency. The applicant agency agrees to provide the necessary documentation to receive available grant funds and ensure that the provisions of any application, which is the basis for which a grant is awarded, are met.

The following officials, or their successors, shall sit on an Executive Board that will jointly administer this Agreement:

1. Skagit County Sheriff;
2. Skagit County Prosecuting Attorney;
3. City of Anacortes Chief of Police;
4. City of Burlington Chief of Police;
5. City of Sedro-Woolley Chief of Police;

6. City of Mount Vernon Chief of Police;
7. San Juan County Sheriff;
8. Swinomish Tribal Community Chief of Police; and
9. District Commander, Washington State Patrol.

The Executive Board may adopt rules and procedures for its activities, including rules for voting and making decisions.

The parties recognize and acknowledge that the Task Force is not a legal entity subject to legal process. The parties further recognize that it will be necessary for personnel assigned to the Task Force to maintain in a secure environment appropriate to the circumstances for all documents and records developed, received, or maintained by personnel assigned to the Task Force. This requires that all electronic reports of Task Force activities be filed under a Task Force number and that copies of records be forwarded to Task Force staff for retention. In accordance with the purposes of the Public Records Act, chapter 42.56 RCW, the parties to this agreement designate the Task Force Commander to coordinate requests for public records related to Task Force activities. The parties to this agreement shall forward to the Task Force Commander all such requests for public records in a timely manner consistent with RCW 42.56.520. Skagit County shall provide legal review of such requests and advice to the Task Force Commander on matters pertaining to the Public Records Act. Agencies shall promptly respond to requests for the identification of records from the Task Force Commander or his or her staff.

As a public body, the Task Force's Executive Board is subject to the Open Public Meetings Act.

SECTION 5 –ORGANIZATION

Overall governance of the Task Force's operations, including the setting of investigative priorities and general operating procedures, will be vested in the Executive Board.

Each member of the Executive Board shall have an equal vote in the conduct of its business. The members of the Executive Board will elect a Chairperson to serve a term of one year at an election to be held during the first meeting of any calendar year. The Chairperson shall be responsible for keeping the other members of the Executive Board informed on matters relating to the functions, expenditures, accomplishments, and problems of the Task Force. The Executive Board will convene at least quarterly to review the Task Force's activities. The Chairperson may call extra sessions, as necessary. A quorum of five members either present or participating by telephone is required before any action may be taken by the Executive Board, and a simple majority of the Executive Board members present is required to pass all motions. In emergency situations, the Chairperson may conduct a telephone poll of the Executive Board members to resolve an issue. Any such emergency action shall be ratified by a vote at the next meeting of the Executive Board.

The Executive Board shall approve the appointment of a Task Force Commander. Under the direction of the Executive Board, the Task Force Commander shall act as principal liaison and facilitator between the Executive Board and the Task Force and shall be responsible for keeping the Executive Board informed on all matters relating to the function, expenditures, accomplishments and problems of the Task Force, including managing the budget, overseeing personnel issues, maintaining relations between the Task Force and the participating agencies, and other matters as delegated by the Executive Board.

All persons assigned to the Task Force shall work under the immediate supervision and direction of a Task Force Supervisor, who shall be selected by the Task Force Commander, subject to approval of the Executive Board. All persons assigned to the Task Force shall adhere to the rules and regulations as set forth in the Task Force's Policy and Procedures Manual, as well as their individual agency or departmental rules, policies and procedures.

For the purpose of indemnification of participating jurisdictions against any losses, damages or liabilities arising out of the services and activities of the Task Force, the personnel assigned to the Task Force by any jurisdiction shall be deemed to be an employee of his or her parent jurisdiction or law enforcement agency, which will be solely responsible for that employee, including payment of salaries, benefits, overtime pay, etc.

SECTION 6 – CLANDESTINE LAB RESPONSE

With the increase of clandestine labs and the hazardous substances associated with the production of illegal controlled substances in Skagit and San Juan counties, there is a need to be prepared to respond and handle these types of cases in the most efficient and safe manner possible. One step was authorized in 2002 when the Executive Board authorized Task Force members to become trained in clandestine lab investigations.

The scope of clandestine lab investigations by the Task Force will be limited by each officer's specific training and experience and Task Force officers will comply with all applicable federal and state laws and regulations applicable to such investigations. Further, the Task Force will work in a partnership, performing a support role, with a fully-established Clandestine Lab Team when identifying, processing, and eradicating illegal drug labs.

The role of the Task Force will not be expanded to become a clandestine lab team.

SECTION 7 – ACQUISITION AND USE OF EQUIPMENT

In the event that any equipment, including furniture, is acquired with grant funds for Task Force use, the parties agree to use the equipment only for specified program purposes during the life of the grant. After the grant period ends, the parties agree to use the equipment only for approved law enforcement purposes and to dispose of the property subject to grant and applicable state and federal requirements.

SECTION 8 – INTEGRATION

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.

SECTION 9 – USE OF RESOURCES

It is intended that the Task Force be utilized to its fullest potential in combating the drug problem in Skagit and San Juan counties. Task Force operations shall be performed in full cooperation and coordination with the local jurisdictions in which the investigations are taking place. In all cases, local agencies will be kept apprised of the status of the cases within their jurisdiction and, the Task Force shall endeavor to work closely with the jurisdictions in whose areas the investigations are taking place in regards to staffing and resources.

When additional law enforcement personnel are needed to support a Task Force drug operation, the first law enforcement resources to be used after those of the Task Force shall be those of the agency with primary jurisdiction (e.g. Anacortes Police Department for enforcement in the City of Anacortes). In the event that these additional resources are deemed inadequate to control the situation, a request for mutual aid will be made directly to an assisting agency by the agency with primary jurisdiction in conjunction with the Task Force Supervisor. Such requests for assistance shall, if possible, specify the number of police officers and types of equipment required, and shall further specify where and to whom the equipment should be delivered.

SECTION 10 – PRESS RELEASES

All agencies participating in this Agreement will make all press releases involving Task Force activities through the Task Force Commander, or jointly, if requested by the agency with primary jurisdiction.

SECTION 11 – TRANSPORTATION OF PRISONERS

Transportation of prisoners to the County Jail will be coordinated by the supervising officer in charge of the incident.

SECTION 12 – INSURANCE COVERAGE

Each agency shall carry, obtain, and keep in force general liability, property damage and false arrest insurance with the following minimums:

| | |
|-------------------|-------------|
| General Liability | \$1,000,000 |
| Property Damage | \$1,000,000 |
| False Arrest | \$500,000 |

Each insurance policy shall have a ten-day cancellation notice in the event of termination or material modification of coverage. In lieu of the foregoing, a member agency may participate in

a shared risk pool or self-insurance program, which provides coverages that equal or exceed those set forth above.

The parties shall, to the best of their ability, coordinate their liability insurance coverages and/or self-insured coverages to the extent possible to fully implement and follow the agreement set forth herein. However, the consent of any liability insurance carrier or self-insured pool or organization is not required to make this Agreement effective as between the parties and the failure of any insurance carrier or self-insured pooling organization to agree or follow the terms of this provision on liability shall not relieve any party from its obligations under this agreement.

SECTION 13 – MUTUAL INDEMNIFICATION

It is the intent of the parties that by entering into this Agreement, each party shall only be responsible for the actions of its own employees.

To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party(s), its elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

In the event of any concurrent act or omission of the parties, each party shall pay its proportionate share of any damages awarded. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration

Each party shall give written notice to the Executive Board and the Task Force Commander of any act or occurrence that the party reasonably believes may lead to a claim or demand, which may be subject to the indemnity provisions of this agreement. Such notice shall be given within five days after the incidence of such act or occurrence has come to the notifying party's knowledge.

Each party shall indemnify its employees in accordance with applicable law and in accordance with applicable provisions of that party's collective bargaining agreement. It is further mutually agreed by the participating agencies that any control exerted by the Task Force Commander and Task Force Supervisor shall not supersede this clause.

The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement

SECTION 14 – DISPUTE RESOLUTION AND SWINOMISH INDIAN TRIBAL COMMUNITY LIMITED WAIVER OF SOVEREIGN IMMUNITY.

- A. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of Washington. Venue for the Washington State Superior Court shall be filed in Skagit or San Juan counties.
- B. The parties to any dispute or disagreement concerning property disposition, use or acquisition of resources, or any other claim arising from this agreement shall first attempt to settle the dispute or disagreement between themselves. If they cannot do so, the complaining agency shall put its complaint in writing, supported by exhibits as needed, and forward it to the Chair of the Executive Board with a copy to the other parties to the dispute, who may submit a written response, also supported by exhibits as needed within 30 days of receiving the written complaint. The Chair of the Executive Board will then submit the complaint and response to the Executive Board for review prior to meeting for consideration of the complaint. Subject to the doctrine of necessity, members of the Executive Board from the agencies involved in the dispute shall recuse themselves from the review, the parties to the dispute shall be allowed to explain their position at an open hearing, and the Executive Board will issue a ruling.
- C. **Arbitration.** Should the decision of the Executive Board fail to resolve a controversy, claim or dispute concerning the making, formation, validity, obligations under or breach of this Agreement and issues related to the existence, interpretation and enforceability of the arbitration provisions of this Agreement, the dispute shall be subject to mandatory arbitration conducted by a single arbitrator in Skagit County.
1. Arbitration under this section shall be governed by the Washington Uniform Arbitration Act, RCW 7.04A; provided, however, that the consolidation provisions in RCW 7.04A.100, and punitive damages provisions in RCW 7.04A.210(1),(5) are not applicable to any arbitration under this section; and provided further that the remaining provisions in RCW 7.04A.210 are subject to Section Eighteen of this Agreement.
 2. A competent arbitrator shall be chosen by agreement of the Parties. If the Parties are unable to agree on an arbitrator within thirty (30) calendar days of a Party demanding arbitration, either Party may request that a judge of the Washington State Superior Court appoint an arbitrator. Each Party shall initially pay one-half the arbitrator's fee and each Party shall bear its own attorneys' fees, costs, and expenses.
 3. The Parties may jointly agree to stay mandatory arbitration proceedings pending voluntary mediation of the controversy, claim or dispute before a mediator jointly chosen by the Parties.
- D. **Compelling, Enforcing, Reviewing, Modifying and Confirming Arbitration.** The Parties agree that pursuant to Subsection 17.C. and in accordance with RCW 7.04A the Washington State Superior Court shall have the authority to compel or enforce arbitration and to review,

modify or confirm an arbitration award. In the event that any such judicial proceedings are initiated, the prevailing Party shall be entitled to its reasonable attorney's fees and costs incurred in compelling arbitration or confirming an arbitration award. To the extent that the Superior Courts of the State of Washington are determined not to have jurisdiction over this Agreement and its enforcement, the arbitration award herein may, in the alternative, be enforced in the U.S. District Court for the Western District of Washington pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*

- E. Limited Waiver of Sovereign Immunity. Except as expressly provided in this Section 17, nothing in this Agreement is intended to be or shall constitute or shall be construed as a waiver, limitation or modification of the sovereign immunity of the Swinomish Indian Tribal Community from unconsented suit. The Tribe hereby waives its sovereign immunity only with regard to arbitration proceedings or proceedings in the Washington State Superior Court or U.S. District Court for the Western District of Washington described in this Section 17, "Dispute Resolution," entering judgment on an arbitrator's award and enforcing in Washington State Superior Court (pursuant to Title 6 RCW) or U.S. District Court for the Western District of Washington, such judgment. This limited waiver relates only to legal actions by parties to this Agreement seeking any relief or enforcement of rights authorized by this Agreement and not to legal actions by any other person, corporation, partnership, or entity whatsoever. This limited waiver authorizes relief compelling the Tribe to take action expressly required by this Agreement and/or awarding monetary damages against the Tribe for breach of this Agreement. The Tribe (as authorized by resolution[s]) does not waive, limit, or modify its sovereign immunity from uncontested suit except as expressly provided in this Section Seventeen. This limited waiver does not extend to proceedings in any other forum, regarding any other matter, or create any rights in any person who is not a party to the Agreement. This limited waiver does not authorize punitive damages against any parties to this Agreement. Upon execution of this Agreement, and if requested, the Tribe will provide to the parties to this agreement resolution(s) from the Swinomish Indian Senate ratifying this Agreement and this Limited Waiver of Sovereign Immunity.

SECTION 15 – DEFENSE FROM THIRD PARTY CLAIMS

The parties to this Agreement have concluded that they have certain common interests in connection with defending against any lawsuit brought against the parties. Accordingly, the parties hereby agree to the following provisions, constituting a Joint Defense Privilege and Confidentiality Agreement. In the event a claim should be brought or an action filed with respect to the subject matter of this agreement, the parties agree that they shall cooperate in the defense of such lawsuit or claim as follows:

- A. The parties to this Agreement have concluded that they have certain common interests in connection with defending against any lawsuit alleging negligence by any party to this Agreement based upon actions taken by that party in conformance with this.
- B. The parties have concluded that, from time to time, their mutual interests will be best served by having their respective counsel share documents, oral representations, factual material, mental impressions, memoranda, witness statements, interview reports, and other

information, including the confidences of the parties (hereinafter "joint defense materials"), on the understanding and agreement that: (a) joint defense materials transmitted among counsel may contain confidential and privileged attorney-client communications; (b) joint defense materials transmitted among counsel may contain attorney work product similarly privileged; and (c) joint defense materials transmitted among counsel may contain materials protected by otherwise applicable privileges and rules of confidentiality.

- C. From time to time, counsel for the parties may exchange joint defense materials in mutual understanding – that such exchanges or disclosures are not intended to diminish in any way the confidentiality of such materials. It is the additional understanding of the parties that exchanges pursuant to this Agreement of joint defense materials that are otherwise protected against disclosure as a result of the attorney-client privilege, the attorney work product protection, and other applicable privileges and rules of confidentiality will not waive any applicable privilege or protection from disclosure.
- D. The parties further agree that neither they nor their counsel will furnish or disclose joint defense materials received from each other, or the contents thereof, to anyone except attorneys, legal assistants, and other employees within the law firms representing the parties, without first obtaining the consent of counsel for all parties who may be entitled to claim any privileges with respect to such materials.
- E. Joint defense materials that are shared pursuant to this Agreement and the information contained therein, are to be used solely by counsel in the preparation of defenses and, if applicable, counterclaims on behalf of their clients in the above-mentioned matters. Neither the joint defense materials nor the information contained therein may be used for any other purpose and may not be disclosed without the express written consent of counsel for the parties.
- F. If another person or entity requests or demands, by subpoena or otherwise, any joint defense materials, counsel will immediately notify counsel for the party that provided the materials. All steps will be taken to permit the assertion of all applicable rights and privileges with regard to the joint defense materials, and the party receiving such requests or demands shall cooperate with the party providing the materials in the assertion of such rights and privileges. No joint defense materials shall be tendered to any person or entity not a party to this Agreement without either (1) the consent of all parties to this Agreement or (2) a lawful order of a court of competent jurisdiction which the party who furnished the information has declined to appeal.
- G. Provided that no use or disclosure is made of information contained in joint defense materials, nothing in this Agreement shall preclude counsel for any party from (a) pursuing independently any subject matter, including subjects reflected in joint defense materials, or (b) disclosing to a third party, at counsel's discretion, information which is developed independently of confidential information supplied to such counsel pursuant to this Agreement.

- H. It is further agreed that the confidentiality prescribed above will remain operative as to all previously furnished information if adversity should subsequently arise between the parties (or any of them), irrespective of any claim that the joint defense privilege may become prospectively inoperative by virtue of such claimed adversity. Upon the development of adversity between the parties, all written joint defense materials or other materials incorporating information contained in such joint defense materials shall be returned immediately upon demand to counsel for the party that provided the written materials, or in lieu thereof, a written statement may be supplied to counsel for the providing party that such writings and recordings and copies have been destroyed.
- I. Subject to the restrictions contained herein on disclosure of joint defense materials, nothing herein shall waive or limit the right of any party hereto to assert any present or future claim for relief or any cause of action against any other party hereto now or in the future.
- J. Each party understands that it is represented only by its own attorney in this matter; that while the attorneys representing the other members have a duty to preserve the confidences disclosed to them pursuant to this Agreement, they will not be acting as its attorney in this matter; and that the attorney representing the other party will owe a duty of loyalty only to his/her own respective clients.
- K. Nothing herein shall require or be interpreted to:
1. Waive any defense arising out of Title 51 RCW that is consistent with the provisions of subsection 15.3;
 2. Limit or restrict the ability of any agency or employee to exercise any right, defense or remedy which a party to a lawsuit may have with respect to claims of third parties, including, but not limited to, any good faith attempts to seek dismissal of legal claims against a party by any proper means allowed under the civil rules in either state or federal court; or
 3. Cover or apportion or require proportionate payment of any judgment against any individual or agency for intentionally wrongful conduct outside the scope of employment of any individual or for any judgment for punitive damages against any individual or Agency. Payment of punitive damage awards shall be the sole responsibility of the individual against whom said judgment is rendered and/or his or her municipal employer, should that employer elect to make said payment voluntarily. This agreement does not require pro rata sharing of any punitive damage awards.

SECTION 16 – INJURY COVERAGE FOR OFFICERS

Whenever any commissioned officer of a Participating Jurisdiction, acting pursuant to this Agreement, is injured and thus unable to perform his/her duties by reason of engaging in mutual aid, but is not at the time acting under the immediate direction of his/her employer, the officer or his/her dependents shall be accorded by his/her employer the same benefits he/she or they would have received had that officer been acting under the immediate direction of his/her employer in his/her own jurisdiction.

SECTION 17 – TRUSTEE

The applicant agency, as the base of Task Force operations and records, shall hold in trust all seized property on behalf of the Task Force, and shall have the authority, upon approval of the Executive Board, to sell, auction, or otherwise dispose of seized property.

All property seized by the Task Force or on behalf of the Task Force shall be stored under the care of the Task Force. All such property forfeited by a court or hearing examiner shall become the property of the Task Force. Unless otherwise required by state or federal law or regulation all seized cash or property converted to cash shall be deposited into the Skagit County Interlocal Drug Fund(s).

The Task Force Commander shall maintain an inventory indicating the nature, disposition, and location of all Task Force assets.

SECTION 18 – WITHDRAWAL FROM AGREEMENT

Any participating agency may withdraw from this Agreement for any reason after sending written notice of its intention to withdraw. Notification shall be made by registered letter to the other participating agencies at their normal business addresses. Withdrawal may be effective 30 days after notice is served or immediately upon written notification that said agency is unable to sustain the required funding. Withdrawal or non-execution of this Agreement by any one agency shall not affect the continued efficacy of the Agreement with regard to other participating agencies.

SECTION 19 – GOVERNING LAW AND VENUE

This Agreement has been and shall be construed to have been made and delivered in the State of Washington, and it is mutually understood and agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

Any litigation to enforce this Agreement or any provision thereof shall be instituted and maintained only in the Skagit or San Juan superior courts.

SECTION 20 – MODIFICATION

No changes or modification to this Agreement shall be valid or binding upon parties to this Agreement unless such changes or modifications are in writing and executed by all parties.

SECTION 21 – SEVERABILITY

It is understood and agreed to by the parties hereto that if any part of this contract is illegal, the validity of the remaining provision shall not be affected and the rights and obligations of the parties shall be construed as if the Agreement did not contain the particular illegal part. If it should appear that any provision herein is in conflict with any statutory provisions of the State of Washington, said provision shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be modified to conform to such statutory provisions.

SECTION 22 – WAIVER

Waiver of any breach or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No terms or conditions of this Agreement shall be held to be waived, modified or deleted except by an instrument agreed by signatories hereto.

SECTION 23 – NONDISCRIMINATION

The participating agencies shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The agencies shall take affirmative action to ensure that applicants are considered for employment and treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: upgrading, demotions or transfers; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and participation in recreational and educational activities. The agencies agree to post, in conspicuous places available to employees and applicants for employment, notices identical to those used setting forth provisions of this nondiscrimination clause. In all solicitations or advertisement for employees placed by them or on their behalf, the agencies shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

SECTION 24 – HEADINGS

The headings to the paragraphs of this Agreement are solely for the convenience of the parties and are not an aid in the interpretation of the instrument.

SECTION 25 – SWINOMISH INDIAN TRIBAL COMMUNITY/JURISDICTIONAL UNDERSTANDING

Because the participation by the Swinomish Tribal Police Department on the Task Force is desirable and necessary to effectively reduce drug trafficking throughout Skagit County, the Swinomish Indian Community signs this Interlocal Agreement subject to the understanding of

the parties hereto, that the exercise of criminal jurisdiction within the exterior boundaries of the Swinomish Reservation is subject to and limited by Public Law 83-280 (RCW 37.12.010 et seq.). Accordingly, crimes committed on the Swinomish Reservation are not necessarily subject to State Law, but may be, depending on the particular crime, the status of the perpetrator and the victim – whether Indian or non-Indian, and the situs of the criminal act, within the exclusive jurisdiction of the Federal Government and/or the Swinomish Indian Tribal Community.

The Tribe hereby grants authority to Washington general authority officers performing their duties under this Agreement within the exterior boundaries of the Swinomish Indian Reservation to enforce the laws of the Swinomish Indian Tribal Community as they relate to the purpose of this Agreement; provided, however, that said officers are working under the immediate direction of an officer of the Swinomish Police Department when exercising such authority and performing such duties.

Nothing in this agreement shall be construed to make the Swinomish Indian Tribal Community subject to the mandates of laws that are inapplicable to the Tribe, including Washington's Public Records Act. However, the Swinomish Tribal Community agrees that it will produce any Task Force records that it may hold to the Skagit County Sheriff for disclosure under the Public Records Act.

SECTION 26 – EFFECTIVE DATE

This Agreement goes into effect, with respect to the parties that have signed the Agreement, when the five core parties who are designated to provide full-time investigators under "Project Description" have signed and approved the Agreement. Parties executing this Agreement after that date shall become participants upon receipt of an executed agreement by the Skagit County Sheriff.

Parties shall forward a copy of the Agreement along with their signature page to the Skagit County Sheriff upon execution. The Skagit County Sheriff shall collate the signature pages, forward them to each party when received, and ensure that the signature pages and the Agreement are filed in accordance with RCW 39.34.040.

CITY OF ANACORTES:

Dated this _____ day of _____, 2017.

LAURIE GERE, Mayor

Mailing Address:

City of Anacortes
City Hall
P.O. Box 547
Anacortes, WA 98221

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

CITY OF BURLINGTON:

Dated this _____ day of _____, 2017.

STEVE SEXTON, Mayor

Mailing Address:

City of Burlington
833 s. Spruce St.
Burlington, WA 98233

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

CITY OF MOUNT VERNON:

Dated this _____ day of _____, 2017.

JILL BOUDREAU, Mayor

Mailing Address:

City of Mount Vernon
City Hall
P.O. Box 263
Mount Vernon, WA 98273

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

GOVERNMENT AGENCY:
Washington State Patrol

Dated this _____ day of _____, 2017.

JOHN R. BATISTE, Chief
Washington State Patrol

Mailing Address:

210 11th Ave. SE
P.O. Box 42602
Olympia, WA 98504-2016

CITY OF SEDRO-WOOLLEY:

Dated this _____ day of _____, 2017.

KEITH WAGONER, Mayor

Mailing Address:

City of Sedro-Woolley
City Hall
410 Talcott St.
Sedro-Woolley, WA 98284

Approved as to content:

CHIEF OF POLICE

Approved as to form:

CITY ATTORNEY

Attest:

CITY CLERK

IN WITNESS WHEREOF, The Swinomish Tribal Community has executed this Agreement this _____ day of _____, 2017.

THE SWINOMISH INDIAN TRIBAL COMMUNITY

Title of Signatory

Print Name of Signatory

Mailing Address:

11404 Moorage Way
LaConner, WA 98257
Phone: (360) 466-7200

ADOPTED this _____ day of _____ 2017.

ATTEST: Clerk of the Council

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

Ingrid Gabriel, Clerk Date

REVIEWED BY COUNTY MANAGER

Michael J. Thomas Date

Rick Hughes, Chair
District 2

PROSECUTOR APPROVED
AS TO FORM ONLY

Randall Gaylord Date

Bill Watson, Vice Chair
District 1

Jamie Stephens, Member
District 3

DATED this _____ day of _____, 2017.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Ron Wesen, Chair

Ken Dahlstedt, Commissioner

Attest:

Lisa Janicki, Commissioner

Clerk of the Board

Recommended:

Will Reichardt, Skagit County Sheriff

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director



ITEM #: 2

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: January 26, 2017 Subject: Bid Award & PSE Agreement, Lighting Fixtures at Wastewater Treatment Plant
Brian Dempsey, Assistant Public Works
Director

Attachments: Bid Results Public Hearing Required: YES () NO (X)
PSE Rebate Agreement

SUMMARY

Supply bids were opened for procurement of lighting fixtures on Thursday, January 10th, at 11:00 a.m. The low, responsive bidder is All-Phase Electrical Supply, located in Burlington, WA, for the amount of \$18,065.25.

The project consists of procuring lighting fixtures at Wastewater Treatment Plant and execution of rebate agreement with Puget Sound Energy (PSE). City Sewer department will perform installation. PSE is providing rebate for lighting fixtures due to energy savings and efficiencies.

RECOMMENDATION

I motion to award the bid to award the bid for lighting fixtures to All Phase Electrical Supply and approve the agreement with Puget Sound Energy and authorize the Mayor's signature.

Bid Opening Form

Project: LIGHTING FIXTURES

Date: 1/10/17 Time: 11:00 AM Page 1 of

| | Contractor/Company | Bid Total |
|---|--------------------|-----------|
| 1 | ALL PHASE | 18,065.25 |
| 2 | NORTH COAST | 21,762.22 |
| 3 | PLATT | 19,380.06 |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |

Opened By: _____

Witnessed by: _____

Request for Bids (RFB)

City of Burlington

Lighting Fixtures

Estimate \$23,700.00

The City of Burlington is soliciting bids from Electrical Suppliers to provide the following fixtures only to the Burlington Wastewater Treatment Plant, 900 S. Section St. Burlington, Washington. Sealed bids will be publicly opened and read after 11:00 am local time on January 10, 2017 at the Burlington City Hall.

Scope of work to be performed consists of: furnishing the following materials only to the wastewater treatment plant at the above address within 30 days of award.

- 6 EA RAB ALED5T52
- 3 EA Hubbell FML-14
- 35 EA Hubbell ASL-A-16L-4K-210-3-U
- 4 EA Hubbell ASL-A-8L-4K-210-3-U

Bid envelopes must be clearly marked on the outside, "**Lighting Fixtures to be opened at 11:00 a.m. January 10, 2017**", and must be delivered to the City of Burlington Finance Department, 833 S. Spruce St., Burlington, WA. 98233 prior to bid opening time. **Bids received and not so marked will not be considered. Bids received after 11:00 a.m. January 10, 2017 will not be considered.**

The City of Burlington will award the bid to the lowest or best bidder, taking into consideration: price, quality, timeliness, service and all other factors that will contribute toward obtaining the best value for the City. The City of Burlington reserves the right to reject any or all bids and to waive irregularities in the bid or in the bid opening process. No bidder may withdraw his proposal after the hours set for the opening thereof, or before award of contract, unless said award is delayed for a period exceeding forty-five (45) days.

Inquiries for this solicitation may be made via email to the Sewer Department Supervisor, Don Erickson at done@burlingtonwa.gov

The City of Burlington is an equal opportunity employer.



CONSERVATION GRANT AGREEMENT

This AGREEMENT is made this ___ day of ___, 20___, by and between PUGET SOUND ENERGY ("PSE") and CITY OF BURLINGTON ("Participant").

RECITALS

- A. Under PSE's Electric Schedule 83 and Gas Schedule 183, as currently in effect and on file with the Washington Utilities and Transportation Commission (collectively, "Tariffs"), PSE offers grants for certain conservation measures installed or implemented at facilities that receive electric or natural gas service from PSE.
B. Participant intends to install or implement conservation measures and is requesting a grant from PSE.

AGREEMENTS

PSE and Participant agree as follows:

- 1. PROJECT PREMISES/METER LOCATION ADDRESS: 924 S SECTION ST BURLINGTON, WA 98233 - CITY OF BURLINGTON - WASTEWATER TREATMENT (Please note: meter location/address may differ from the site mailing address). Participant will install or implement the conservation measures listed in paragraph 2 ("Conservation Measures") at the above located facilities (the "Premises"). Participant represents either (a) that it is the owner or otherwise has the lawful authority to make the statements herein on behalf of the owner of the Premises, or (b) that it is the lawful tenant of the Premises and that it has obtained written authorization from the owner of the Premises.
2. Conservation Measures. Participant represents that it will purchase equipment or materials or has entered or will enter into an agreement with one or more contractors (the "Contractor") for the purchase and installation or implementation at the Premises of the Conservation Measures which may be detailed in Attachment C: Attachment to Conservation Grant, at the following costs:

Table with 4 columns: Conservation Measures, Measure Life, Total Cost, Eligible Grant. Row 1: Lighting Standard, 12, \$23,238.10, \$7,220.64. Row 2: TOTAL (includes sales tax), \$23,238.10, \$7,220.64.

Participant represents that the total cost of the Conservation Measures is the net amount of its obligation with respect thereto.

- 3. Grant. Subject to PSE acceptance, PSE will grant the Participant, after installation of the Conservation Measures, an amount equal to the Eligible Conservation Grant (the "Grant") set forth on Attachment C, provided, however, that such Conservation Measures must be installed, and Grant paid within 24 months or less of the signing of this Conservation Grant Agreement. If for any reason the installed cost of the Conservation Measures is less than the amount shown above and on Attachment C, PSE may decrease pro rata the amount of the Grant. Participant shall be responsible for paying any amount in excess of the amount of the Grant.

CONSERVATION GRANT AGREEMENT

4. **Separate Contract.** Participant acknowledges and agrees that PSE is not, and shall not be deemed to be, a party to any purchase or installation contract relating to Conservation Measures, which shall be installed pursuant to a contract between Participant and its Contractor(s). Participant expressly acknowledges that PSE's involvement with respect to any aspect of the Conservation Measures is limited to the furnishing of the Grant. **PSE HAS NOT MADE AND DOES NOT MAKE (AND PARTICIPANT ACKNOWLEDGES THAT PSE DOES NOT MAKE) ANY IMPLIED OR EXPRESS WARRANTY (INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS) REPRESENTATION, OR PROMISE WITH RESPECT TO EITHER (A) THE CONSERVATION MEASURES, (B) ANY MATERIALS AND LABOR REQUIRED FOR OR USED IN THE INSTALLATION OF THE CONSERVATION MEASURES, OR (C) THE INSTALLATION OF THE CONSERVATION MEASURES.**
5. **Final Cost Documentation, Access & Inspection:** Participant agrees to promptly provide PSE, upon request, and for a period no shorter than the longest applicable measure life: (1) documentation verifying equipment purchased and/or work performed in connection with the Conservation Measures installed; (2) reasonable access to and inspection of the Facility and Conservation Measures installed therein before, during and/or after implementation; and (3) reasonable access to, inspection and use of energy usage data related to the Conservation Measures including release of utility bills and Facility energy consumption information following implementation.
6. **Release.** Participant releases PSE from any and all claims, losses, harm, costs, liabilities, damages and expenses directly or indirectly resulting from or in connection with (a) the Conservation Measures, (b) any materials and labor required for or used in the installation of the Conservation Measures, (c) the installation of the Conservation Measures, or (d) the identification, handling and disposal of any associated hazardous waste materials.
7. **Disclaimer.** PSE conducts energy analyses at the request of its customers to determine the extent to which conservation measures are cost-effective. Any estimate of energy savings made by PSE in connection with any such analyses is solely for the purpose of determining the cost-effectiveness of the particular conservation measures and not to be used for any other purpose. PSE has not and does not make any promise, warranty or representation with respect to any savings in energy consumption from Conservation Measures.
8. **Termination.** In the event a Participant's contribution to PSE's recovery of energy efficiency program costs is affected by all or a portion of Participant's electric and/or gas delivery service being provided by a party other than PSE, then Participant shall refund to PSE an amount equal to the ratio of the unused Measure Life of the measure(s) to the total Measure Life of such Conservation Measure(s) multiplied by the dollar amount of the Grant with respect to such Conservation Measure(s).
9. **Incorporation of tariffs by reference.** This Agreement and the *Attachment To Conservation Grant* are subject to the terms of the Tariffs, incorporated herein by reference. Specific terms and conditions from one or more conservation schedules from similar filed tariffs may also apply, as determined by PSE at its sole discretion, based on various criteria. A complete list of conservation schedules is available at:

http://pse.com/aboutpse/Rates/Pages/Electric-Rate-Schedules.aspx?Schedule_x0020_Type=Conservation.
10. **Entire Agreement.** This Agreement and its attachments set forth the entire agreement between the parties and supersede any and all prior agreements with respect to the Conservation Measures. No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in writing and signed by both parties.



**CONSERVATION
GRANT AGREEMENT**

PUGET SOUND ENERGY

PARTICIPANT

By: _____

By: _____

Name: Corey Corbett

Print Name: _____

Title: Mgr., Business Energy Management

Title: _____

Federal Tax I.D. No.: _____

ATTACHMENT C TO CONSERVATION GRANT

Conservation Measure(s) shall consist of the following:

This project shall implement the Business Standard Lighting project defined in the attached PSE Business Lighting Workbook.

At a minimum the project shall follow these specifications:

1. Final project lighting power density shall at least meet that required by section C405.5.2 of the current Washington State Energy Code.
2. Newly installed T8 ballasts shall be instant start; if controls are utilized then programmed start ballasts shall be used. All new T8 ballasts shall be NEMA Premium labeled or listed on CEE's High Performance 120V and 277V T8 ballast list.
3. Reduced Wattage T8 Fluorescent Lamps: Must be 25-28 watt, 800 series or better, 4-foot lamps listed on the CEE (Consortium for Energy Efficiency) qualified list.
4. LED products must be on one of the following lists of qualifying products: Energy Star, Design Lights Consortium, or the Lighting Design Lab approved products.

The above specifications are solely for the purpose of defining energy-related components of Conservation Measure(s) for which the Grant is offered. Puget Sound Energy is not responsible for ensuring the health, safety, comfort, or well-being of workers or facility occupants or the suitability of equipment selected for the intended application. It is the responsibility of the grant Participant and the Participant's hired designers, contractors, consultants to ensure compliance of the Conservation Measure(s) with Participant's needs and all applicable codes and standards.

The following shall be submitted by Participant prior to Grant payment:

- Completed Request for Taxpayer I.D. Number ("W-9").
- Copies of invoicing (no purchase orders, quotes, or estimates) for all expenses, including but not limited to equipment, materials, and labor associated with installation of Conservation Measure(s).

Other (specify): _____

ATTACHMENT C TO CONSERVATION GRANT

Conservation Measure(s) shall be verified as follows prior to Grant payment:

PSE shall conduct the following as the verification process:

1. A final site visit may be conducted by a PSE Representative to verify as built fixture types and quantities. PSE reserves the right to conduct onsite verifications for Projects with 25,000 kWh or less.
2. Projects may require additional back-up documentation as requested by PSE Representative.

If intended energy savings are not being achieved by Conservation Measure(s) because specified equipment efficiency parameters or performance parameters defined above are not used, Participant shall be required to correct such deficiencies prior to Grant payment. Failure to comply with specified equipment efficiency or performance parameters may result in forfeiture or reduction of Grant payment.



ITEM #: 3

CHECK ONE:

NEW BUS. X

OLD BUS. _____

AGENDA ITEM

Council Date: January 12, 2017 Subject: Update to Burlington Municipal Code – Contract with Mike Connelly
Leif Johnson, City Attorney

Attachments: Proposed Contract Public Hearing Required: YES () NO (X)

SUMMARY

The City has been drafting substantial revisions of BMC Chapters 14/14A/15/16/17 and the Utilities Section in Chapters 1 & 2, with outside counsel Mike Connelly. This project presents substantial value to the City both for fair and predictable usage of the code by Citizens and staff, and overall compliance with the law. In order to keep Council aware of costs, the City's existing contract with outside counsel has a not-to-exceed limit which was reached last year. Several unexpected issues have arisen, including staffing changes, other priority City projects that required immediate attention, several interim Supreme Court rulings and additional necessary revisions identified by City staff after initial drafts. Therefore, while work is nearly complete, additional revisions are necessary in order to finalize this project. City staff has met with outside counsel and identified a path to complete the revisions and present the final versions to planning commission and council this spring. Given these unexpected issues, outside counsel has voluntarily written off approximately \$15,000.00 worth of work performed on this project over the last year, in recognition of the overall project cost and in order to keep City costs down. Outside counsel has requested that the City's contract be amended in order to reasonably bill for work necessary to complete the project. Outside counsel and City staff will coordinate to have as much remaining work performed by City staff or paralegals as possible, in order to limit remaining costs. Outside counsel anticipates approximately ten hours of remaining work, including presentation to planning commission and staff. Outside counsel and the Legal Department are requesting Council authorization for this revised contract with Mr. Connelly and the Mayor's authorization to sign.

RECOMMENDATION

"I move to approve the contract with Mike Connelly for the updates to the Burlington Municipal Code and authorize the Mayor's signature."

ETTER, McMAHON, LAMBERSON,
VAN WERT & ORESKOVICH, P.C.

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January 4, 2017

(VIA EMAIL DELIVERY)

Leif Johnson
City Attorney
City of Burlington
833 S. Spruce Street
Burlington, WA 98233

Re: 2017 Contract Revision

Dear Mr. Johnson:

The purpose of this letter is to advise the City of Burlington (the "City") of the services I would perform and the fees I would charge as special counsel to the City.

SCOPE OF ENGAGEMENT

I propose to continue review and provide advice and guidance relative to the following matters:

1. The City's Development Code, specifically Titles 12, 14, 15, 16, 17, and 18. Changes will be proposed to clarify and simplify existing language, to comply with current laws, to eliminate repetitive sections and to ensure internal consistency as well as consistency with your comprehensive plan.
2. Confer with appropriate staff to discuss and finalize any language changes suggested, and create final drafts of any code provisions.

ATTORNEY-CLIENT RELATIONSHIP

In this transaction, the City would be the client and an attorney-client relationship will exist between the City and Michael F. Connelly and Etter, M^cMahon, Lamberson, Van Wert & Oreskovich, P.C. (the "Firm").

PERSONNEL

I would have primary responsibility for these matters. When appropriate, additional interns or paralegals may assist me. I assign other personnel on the basis of experience, expertise, nature and scope of the issue, and the time constraints imposed by the matter.

FEES

The Firm will bill the City for legal services on a hourly basis. My rate for these matters will be \$250.00 per hour. Legal interns will be billed at \$60.00 per hour and paralegal services at \$90.00 per hour.

DISBURSEMENTS AND OTHER CHARGES

From time to time, the Firm may advance or incur certain costs and expenses with respect to the City's legal matters. These costs would be charged to the City in addition to the flat fee. Such charges include, but are not limited to, photocopying and messenger services.

MONTHLY INVOICES

The Firm will send invoices for services rendered to the City on a monthly basis. Statements are generally mailed in the first week of the month following the month in which the services are performed. However, disbursements and other charges may not appear on our statements until a few weeks after the cost is incurred. Payment on all statements is due upon receipt, and balances not paid within 30 days are assessed a late payment charge of 1.25 percent per month. The Firm retains the right to cease performing legal services and to terminate our representation of the City for any reason consistent with ethical rules, including conflicts of interest or delinquency or nonpayment of legal fees and expenses.

CONFLICTS OF INTEREST

I have completed a thorough conflicts check within my Firm and have not found any current conflict between the City and my existing clients. Please be aware that the Firm represents many other municipalities and municipal organizations. It is possible that during the time that the Firm is representing the City, some of our present or future clients will have disputes or transactions with the City. I will contact you immediately upon learning of any such conflict to determine if I may continue this representation.

Leif Johnson
January 4, 2017
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If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter dated and signed, retaining the original for your files. I look forward to working with you.

Very truly yours,

ETTER, McMAHON, LAMBERSON,
VAN WERT & ORESKOVICH, P.C.



Michael F. Connelly

MFC:km

Accepted and approved on _____, 2017.

CITY OF BURLINGTON, WASHINGTON

By: _____

Title: _____