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- The public is encouraged to comment via email to [cityclerk@cityofanacortes.org](mailto:cityclerk@cityofanacortes.org) or via written comment addressed to City Clerk, P.O. Box 547, Anacortes, WA 98221. Public comments received by the [City Clerk](#) prior to 3:00 p.m. the day of the meeting will become part of the record for the meeting, just as if presented in person.
- Complete guidelines for virtual participation in Anacortes City Council meetings are available [here](#). View the quick video example for connecting to the meeting [here](#).



**Anacortes City Council**  
Municipal Building Council Chambers  
904 6th Street

**June 13, 2022**  
**6:00 PM**

**PRELIMINARY AGENDA**  
[Packet Materials](#) / [Watch Meeting](#)

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
  - a. Housing Affordability and Community Services Committee (Discussion)
  - b. Planning Committee (Discussion)
  - c. Public Safety Committee (Discussion)
  - d. Port / City Liaison Committee (Discussion)
4. **Public Comment**
5. **Consent Agenda**
  - a. Minutes of May 23, 2022 (Action)
  - b. Minutes of June 6, 2022 (Action)
  - c. Approval of claims in the amount of \$791,496.42 (Action)
  - d. Contract Award: 2022 Cape Seal Preparation #22-151-TRN-001 (Action)
  - e. Contract Award: 2022 Western Avenue Waterline Project #22-163-WTR-001 (Action)
  - f. Contract Award: AFD Station 3 Lease 2022-2024 #22-165-AFD-001 (Action)
6. **Other Business**
  - a. \* Skate Park Funding Request (Discussion/Possible Action)
  - b. \* Ordinance 4021: Amending Title 6 AMC regarding Animals (Discussion/Action)
7. **Adjournment**

*Per Resolution 3051, citizens wishing to comment on items not on the agenda may do so under Public Comment. Citizens wishing to comment on items indicated with an asterisk (\*) may do so as those items are considered by Council during the course of the meeting.*

The City of Anacortes is committed to making public meetings available and accessible to all members of the community. For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.

## **Anacortes City Council Minutes - May 23, 2022**

### **Call to Order**

Mayor Pro Tempore Anthony Young called to order the Anacortes City Council meeting of May 23, 2022 at 6:00 p.m. Councilmembers Jeremy Carter, Ryan Walters, Christine Cleland-McGrath, Carolyn Moulton, Bruce McDougall and Amanda Hubik were present.

Councilmember Moulton participated in the meeting remotely via Zoom.

No councilmembers were absent.

### **Pledge of Allegiance**

The assembly joined in the Pledge of Allegiance.

### **Announcements and Committee Reports**

Mr. Young gave a Covid update before asking for committee reports.

After the committee reports Ms. Cleland-McGrath requested resolution 3088, recognizing June 2022 as Pride Month, be moved from item 7a to the end of the agenda so as to be the last item on the agenda.

Council all agreed to move the resolution to be the last item on the agenda.

### **Traffic Safety Committee**

Ms. Moulton reported from the previous Committee meeting. The topics discussed included lack of traffic paint, vehicles parked on T Avenue that have not taken advantage of services offered to them, including 6 RV's tagged that are not registered and schedule to be towed if not moved by the owner or occupant. Other various traffic painting and traffic safety items were discussed.

### **Housing Affordability and Community Services Committee**

Mr. Walters reported from the Committee meeting the previous week. The topics discussed included a site visit in Mount Vernon, and Sedro Woolley, and how they managed their housing, and held discussion with them on potentially partnering with them in some way for future building opportunities in Anacortes.

### **Parks and Recreation Committee**

Ms. Hubik reported from the Committee meeting held the previous week. The topics discussed included potential future cemetery fee increases, a potential request for funding for the upcoming skate park project, and various other parks classes and

### **Planning Committee**

Ms. Cleland-McGrath reported from the Committee meeting held at 5:00 PM before the council meeting started.

### **Public Comment**

Mayor Pro Tern Young invited the public to comment on any item not on the agenda. There were 2 attendees, Anastasia Brensick, and Doug Thurber, who addressed the council.

### **Consent Agenda**

Mr. McDougall moved, seconded by Mr. Carter, to approve the following Consent Agenda items. The motion carried unanimously.

- a. Minutes of May 16, 2022
- b. Approval of claims in the amount of \$254,854.72

- c. Contract Award: AFD Rescue Truck Replacement - Ram 5500 Chassis Purchase #22-091-ERR-001
- d. Interlocal C20160538 Amendment 1: Countywide Public Safety Communications Center (Skagit 911)

### **Public Hearings**

Mr. Young introduced Mr. Measamer to present the item for Public Hearing

### **Resolution 3082: A resolution updating the work plan adopted by Resolution 3005 regarding Bonus Height Provisions in the R4 Use Zone West of the Commercial Use Zone related to Ordinance 4020**

DON MEASAMER presented resolution 3082 and the associated work plan related to ordinance 4022 to the Council.

Mr. Young opened the public hearing and asked if any members of the public or online attendees wished to comment.

No comments were given.

Mr. Young then closed the public hearing.

Ms. Cleland-McGrath moved, seconded by Ms. Hubik, to approve the resolution.

The resolution passed.

### **Other Business**

### **Resolution 3087 Authorizing Execution of Tourism Promotion Fund Contracts**

Mr. Hoglund presented the resolution for Lodging Tax funding consideration.

It was moved by Mr. Walters, seconded by Ms. Cleland-McGrath, to approve Resolution 3087 authorizing execution of Tourism Promotion fund contracts between the City of Anacortes and the recipient agencies to promote tourism and attract visitors to Anacortes.

The resolution passed unanimously.

Ordinance 4022: Adoption of the 2019 Stormwater Management Manual for Western Washington

Diane Hennebert presented to Council on the Adoption of Ordinance 4022 the 2019 Stormwater Management Manual. This was a discussion item only. Ms. Hennebert said the Ordinance would be back to Council on June 6 for consideration of adoption.

Mr. Walters made some positive comments on the proposed change to the manual.

### **Shoreline Master Program Periodic Update**

Libby Grage continued the update of the Shoreline Master Program that was started at the previous council meeting on May 16, 2022.

Ms. Grage requested feedback from Council to incorporate before taking the Periodic update back to the public for public feedback.

Ms. Grage then reviewed next steps for the update of the SMP, as well as Regulation of Critical areas in shoreline jurisdiction.

Ms. Grage then reviewed additional items of the update that had been identified for follow-up.

### **Resolution 3089 - Declaring an Emergency and Waiving State Bidding Requirements for the Relocation of Sanitary Sewer Pump Station #8, and U Avenue Bank Stabilization.**

Tim Hohmann presented to Council the issues taking place with sanitary sewer pump station #8, particularly as it relates to how its structure and functionality was affected by a significant high tide (King tide) along with high wind creating significant wave action earlier in the year in January, and the shoreline bank around the pumpstation along U Avenue, and the need to take immediate action to avoid catastrophic sewage release into Guemes Channel Bay.

Mr. Walters moved, seconded by Ms. Moulton, to approve Resolution 3089 declaring an emergency and waiving state competitive bidding requirements for the relocation of sanitary sewer pump station #8 and U Avenue bank stabilization, pursuant to RCW 39.04.280.

The resolution passed unanimously.

**Contract Award: Pump Station #8 Emergency Relocation #22-154-ENG-001**

Mr. Hohmann then presented the contract associated with the emergency work for Council consideration.

Mr. Walters moved, seconded by Ms. Cleland-McGrath that City Council authorize the Mayor to sign contract 22-154-ENG-001 with Welch Brothers Construction in the not to exceed amount of \$350,000.00 to perform the Pump Station #8 Emergency Relocation and Guemes Channel bank repair.

The motion passed unanimously.

**Resolution 3088 Declaring Pride Month June 2022**

Mayor Pro Tem. Young presented the item. Mr. Walters then introduced the resolution.

Mr. Young then read the resolution.

Mr. Young then invited the public to comment.

Several members present made comments at the podium, and one person attending online made comments, about the resolution.

Ms. Cleland-McGrath moved, seconded by Mr. McDougall, to adopt resolution 3088 declaring the month of June LGBTQ+ Pride Month.

Vote: Ayes - Carter, Walters, Young, Cleland-McGrath, Moulton, McDougall, Hubik. Nays - None. Result: Motion passed.

**Adjournment**

There being no further business, at approximately 7:47 p.m. the Anacortes City Council meeting of May 23, 2022 was adjourned.

## **Anacortes City Council Minutes - June 6, 2022**

### **Call to Order**

Mayor Matt Miller called to order the Anacortes City Council meeting of June 6, 2022 at 6:00 p.m. Councilmembers Jeremy Carter, Ryan Walters, Anthony Young, Carolyn Moulton, Bruce McDougall and Amanda Hubik were present.

Councilmember Walters participated in the meeting remotely via Zoom.

Councilmember Cleland-McGrath was absent.

### **Pledge of Allegiance**

The assembly joined in the Pledge of Allegiance.

### **Announcements and Committee Reports**

Mayor Miller provided a current update on COVID case rates, which he noted had peaked and were now declining. The Mayor also reported on the successful Waterfront Festival over the weekend.

### **Fiber Committee**

Mr. McDougall reported from the Fiber Committee meeting held the previous week. The topics discussed included the number of new service hookups, monthly revenue and market share statistics, the status of the West End expansion, and updates to the Master Services Agreement for commercial customers.

### **Finance Committee**

No members of the Finance Committee reported on the meeting held May 25, 2022. Items discussed at the committee meeting included April month-end status, OpenGov implementation and the Annual Report completion and submission.

### **Housing Affordability and Community Services Committee**

Ms. Moulton reported from the Committee meeting held May 26, 2022. The topics discussed included a presentation from Island Hospital regarding a mental health social work program in Anacortes Public Schools and the associated efforts to procure additional funding through grants and other funding sources to enhance accessibility. She also mentioned an upcoming workshop for local government officials covering a recovery-based system of mental health care to take place in Mount Vernon on June 17.

Mr. Walters reported about the June 2, 2022 meeting, which included activities related to moving vehicles off of T avenue, Compass Health plans to hire a social worker as a designated crisis responder to help with police calls related to mental health issues, an upcoming public health department presentation to Council on the Northstar model for handling mental health and homelessness, and information about Habitat for Humanity and the League of Women Voters related to affordable housing. Mayor Miller mentioned the recent Anacortes Family Center and Housing Authority tour by Northstar representatives.

### **Museum Committee**

Mr. McDougall reported from the Committee meeting held the previous week. The topics discussed included recent outreach and social media events, including presentations at the Anacortes Public Library and Anacortes Senior College, and a local television feature on the Mitchell Murals project. Additionally, he mentioned an upcoming Anacortes house history research event at the Anacortes Historic Preservation Board.

### **Public Works Committee**

Ms. Moulton reported from the Committee meeting earlier in the evening. The topics discussed included contract modification for water line replacements, the Guemes View fiber expansion project, the cape seal project with Skagit County and the automated water meter reading project that will allow City staff to work with customers to enhance water conservation efforts.

### **Oath of Office for Police Promotions**

Mayor Miller administered oaths to the following police officers: Captain Chad Pruiett, Corporal Michael Scheepers, Sergeant Robert Leetz and Community Service Officer Brent Lindquist.

### **Public Comment**

Mayor Miller invited the public to comment on any item not on the agenda.

Mr. Thurber requested consideration of a resolution to acknowledge traditional families. He also offered to provide copies of a DVD called "2000 Mules" to any Council Member who wanted one.

### **Consent Agenda**

Mr. McDougall moved, seconded by Mr. Carter, to approve the following Consent Agenda items, which passed unanimously by voice vote.

- a. Draft Minutes of 05-23-2022
- b. Approval of claims in the amount of \$356,622.22  
The following vouchers/checks were approved for payment:  
EFT numbers: 103330 through 103387, total \$312,019.13  
Check numbers: 103388 through 103398, total \$37,279.08  
Wire transfer numbers: 304282 through 304885, total \$7,324.01
- c. Street Fair Application: Free Movie Night on Kingsway

### **Other Business**

#### **Ordinance 4021: Amending Title 6 AMC regarding Animals**

City Attorney, Darcy Swetnam, presented the 2nd reading of Ordinance 4021 to revise Title 6 of the Anacortes Municipal Code regarding dangerous dogs. She went through a variety of changes proposed to the existing code, including comments received from Councilmembers after the first reading. Ms. Moulton thanked Officer Nybo and Chief Floyd for their work on the code update and agreed with aligning the definition of "provoked" with the Revised Code of Washington.

Mayor Miller invited members of the audience to comment on this agenda item. No one present wished to address the Council.

Mr. Walters brought forth that he drafted a clarified version of the definition of "provoked" and Ms. Swetnam agreed to incorporate the revised definition in the draft ordinance. Mr. Walters also mentioned the City of Bellingham's ordinance has a provision for seizure of a dog that bites to be tested for rabies and wondered if the Anacortes Municipal Code update included similar language. He further suggested that in the interest of a timely update, the matter might be more appropriately addressed in a separate ordinance. Ms. Swetnam replied that she would consult further with staff and bring the revised ordinance back to Council with those questions answered.

#### **Contract Award: Access Anacortes Fiber Internet Guemes View Area Underground Construction Project #22-119-FBR-001**

Access Anacortes Fiber Internet Manager, Jim Lemberg, along with Senior Engineering Technician, Tim Hohmann, presented a contract for the underground work for installing fiber in the Guemes View expansion

area. Mr. Lemberg explained that this contract is for civil improvements including conduit and vaults for the underground infrastructure work, and the actual fiber installation contract will follow at a later date. He related that the decision to break up the project into two separate contracts was made in the interest of fiscal responsibility. Mr. Hohmann reported the lowest responsive bidder for the Contract is SummitX and detailed the project cost and timeline. The slide deck for Mr. Lemberg's and Mr. Hohmann's presentation is included in the packet.

Mr. McDougall expressed support for separating the project into two contracts and asked Mr. Lemberg if there would be a separate invitation to bid or if the follow-on work would be handled by City staff. Mr. Lemberg responded that City Fiber staff were engaged in home installation orders, thus requiring a contractor to complete the Guemes View expansion project. Mr. McDougall then asked if the two contracts could be coordinated to complete the installation in a timely fashion. Mr. Lemberg expressed his hope that SummitX would be flexible in their work to enable the following contractor to immediately step in and perform their portion of the project. Mayor Miller thanked the Fiber and Public works departments for incorporating lessons learned from previous contracts and working collaboratively to move forward with Access Anacortes Fiber expansion efforts.

Mayor Miller invited members of the audience to comment on this agenda item. No one present wished to address the Council.

BRUCE MCDOUGALL moved, seconded by Amanda Hubik, to authorize the Mayor to sign contract 22-119-FBR-001 with SummitX Contractors Inc. in the amount of \$2,002,014.66 to perform the Access Fiber Guemes View Area Underground Construction Project. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CAROLYN MOULTON, BRUCE MCDOUGALL, Amanda Hubik. Nays - None. Result: Passed

#### **Contract Modification: 2022 Waterline Replacements #22-040-WTR-001**

Acting Public Works Director, Brian McDaniel, presented a contract modification for the 2022 waterline replacement project. He explained that this modification is a programmatic water main replacement to maximize the funds allocated to the project. Mr. Young commended the diligent staff work on this project and good stewardship of public funds.

CAROLYN MOULTON moved, seconded by ANTHONY YOUNG, to authorize the Mayor to sign a contract modification with C Johnson Construction Inc., under Contract 22-040-WTR-001, in the amount of \$242,994.79, increasing the total contract price to \$1,014,398.76. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CAROLYN MOULTON, BRUCE MCDOUGALL, Amanda Hubik. Nays - None. Result: Passed

#### **Ordinance 4022: Adoption of the 2019 Stormwater Management Manual for Western Washington**

Acting Public Works Director, Brian McDaniel and Stormwater Program Manager, Diane Hennebert brought forth Ordinance 4022: Adoption of the 2019 Stormwater Management Manual for Western Washington for consideration. Mayor Miller expressed his thanks to Ms. Hennebert for staffing the City's stormwater exhibit and responding to citizen questions and concerns at the Anacortes Waterfront Festival over the past weekend.

RYAN WALTERS moved, seconded by CAROLYN MOULTON, to approve Ordinance 4022 adopting the 2019 Stormwater Management Manual for Western Washington. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CAROLYN MOULTON, BRUCE MCDOUGALL, Amanda Hubik. Nays - None. Result: Passed.

#### **Adjournment**

There being no further business, at approximately 7:00 p.m. the Anacortes City Council meeting of June 6, 2022 was adjourned.

**The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the June 13, 2022 City Council meeting:**  
[Download this file in OpenDocument spreadsheet format.](#)

| Invoice Doc # | Transaction Date | Invoice #  | Vendor Full Name             | Description                                                                      | Total Amount | Approval Queue |
|---------------|------------------|------------|------------------------------|----------------------------------------------------------------------------------|--------------|----------------|
| 305277        | 11/30/2021       | 1154635597 | WILSON DDS, NICHOLAS J       | DENTAL SERVICES LEOFF1 RETIREE                                                   | \$ 3,433.00  | hr             |
| 305273        | 3/16/2022        | INV-003694 | OVERHEAD DOOR CO             | FIRE STATION 1 GARAGE DOOR REPAIR                                                | \$ 999.87    | pw1            |
| 305168        | 3/28/2022        | IS-0423    | CITY OF MOUNT VERNON         | NET MOTION - APD AND FIRE USERS                                                  | \$ 7,823.42  | apd            |
| 304891        | 3/31/2022        | 10538      | DALTON, OLMSTED & FUGLEVAND  | WWTP OUTFALL PRE-DESIGN - MARCH 2022                                             | \$ 36,573.45 | dwwtp          |
| 305299        | 3/31/2022        | 551        | WIDENER & ASSOCIATES         | FEMA FUNDING FOR OUTFALL PROJECT: MARCH 2022                                     | \$ 1,320.00  | dwwtp          |
| 305270        | 3/31/2022        | 553        | WIDENER & ASSOCIATES         | FIDALGO AVENUE EMERGENCY REPAIRS - ENVIRONMENTAL PERMITTING/DOCS - MARCH 2022    | \$ 480.00    | pw1            |
| 305268        | 3/31/2022        | 554        | WIDENER & ASSOCIATES         | WWTP OUTFALL PERMITTING SERVICES - MARCH 2022                                    | \$ 6,901.20  | dwwtp          |
| 305306        | 4/1/2022         | 31619      | COMMERCIAL ALARM & DETECTION | LIBRARY FIRE ALARM MONITORING AGREEMENT - APRIL, MAY, JUNE 2022                  | \$ 97.92     | pw1            |
| 305261        | 4/30/2022        | 10564      | DALTON, OLMSTED & FUGLEVAND  | WWTP OUTFALL PRE-DESIGN - APRIL 2022                                             | \$ 30,406.86 | dwwtp          |
| 305269        | 4/30/2022        | 582        | WIDENER & ASSOCIATES         | WWTP OUTFALL PERMITTING SERVICES - APRIL 2022                                    | \$ 5,842.25  | dwwtp          |
| 305266        | 4/30/2022        | OC-01      | H W LOCHNER, INC             | ON-CALL PROFESSIONAL PLAN REVIEW CONSULTANT SERVICES: STORMWATER 2/28/22-4/30/22 | \$ 3,516.66  | pw1            |
| 305264        | 4/30/2022        | WO01-01    | H W LOCHNER, INC             | ON-CALL PROFESSIONAL PLAN REVIEW CONSULTANT SERVICES: R AVENUE GRANT FUNDING     | \$ 2,656.20  | pw1            |
| 305265        | 4/30/2022        | WO02-01    | H W LOCHNER, INC             | ON-CALL PROFESSIONAL PLAN REVIEW CONSULTANT SERVICES: INTERIM CITY ENGINEER      | \$ 483.85    | pw1            |
| 305159        | 5/11/2022        | 13547335   | PAPE MACHINERY INC.          | SHAFT #712                                                                       | \$ 88.53     | dshop          |
| 305308        | 5/12/2022        | 2132-3     | MAKERS ARCHITECTURE          | AFFORDABLE HOUSING ACTION PLAN - APRIL 2022                                      | \$ 8,847.08  | plan           |
| 305262        | 5/15/2022        | 20505TC    | NW SAFETY SIGNS INC          | OAK HARBOR TELEMTRY INSTALLATION FLAGGING                                        | \$ 10,371.31 | dwwtp          |
| 305163        | 5/16/2022        | 22-32534   | NORTHWEST SAFETY CLEAN       | REPAIR PPE                                                                       | \$ 482.32    | medic          |
| 305271        | 5/16/2022        | 26487      | ALLMAX SOFTWARE, INC.        | WTP ALLMAX OPERATOR10 WATER ANNUAL SUPPORT THROUGH 5/31/23                       | \$ 2,805.00  | dwwtp          |
| 305059        | 5/16/2022        | 299089     | DEPT OF LABOR & INDUSTRIES   | ELEVATOR OPERATOR RENEWAL 7/1/22-7/1/2023                                        | \$ 504.60    | pwfac          |
| 305259        | 5/17/2022        | 111555     | VECA ELECTRIC & TECHNOLOGIES | ELECTRICAL WORK FOR W3 CONTROLS AND VENDING MACHINE INSTALLATION                 | \$ 3,769.94  | dwwtp          |
| 305061        | 5/17/2022        | 300114     | DEPT OF LABOR & INDUSTRIES   | ELEVATOR PENALTY                                                                 | \$ 114.10    | pwfac          |

| Invoice Doc # | Transaction Date | Invoice #  | Vendor Full Name              | Description                                                    | Total Amount | Approval Queue |
|---------------|------------------|------------|-------------------------------|----------------------------------------------------------------|--------------|----------------|
| 305062        | 5/17/2022        | 320089A    | BAY CITY SUPPLY               | FACILITY SUPPLIES                                              | \$ 322.05    | pwfac          |
| 305297        | 5/18/2022        | 1700171410 | PARDEEP S. BRAR DMD           | DENTAL SERVICES, RODNEY DODGE, LEOFF1 RETIREE                  | \$ 877.00    | hr             |
| 305286        | 5/19/2022        | 05/05/2022 | FIDALGO CLEANING              | CLEANING CARNEGIE                                              | \$ 160.00    | museum         |
| 305147        | 5/19/2022        | 220595     | T-SHIRTS BY DESIGN            | SHIRTS FOR REC PROGRAM                                         | \$ 1,066.24  | pkrec          |
| 304620        | 5/19/2022        | 23740      | SPECIAL PRODUCTS CORP.        | MAINTENANCE SUPPLIES                                           | \$ 113.29    | dwwtp          |
| 305063        | 5/19/2022        | 321138     | BAY CITY SUPPLY               | FACILITY SUPPLIES                                              | \$ 964.68    | pwfac          |
| 305318        | 5/19/2022        | 54599      | CITIES DIGITAL, INC.          | DOCUSIGN ANNUAL SUBSCRIPTION 6/20/22-6/19/23                   | \$ 3,590.40  | legal          |
| 305263        | 5/20/2022        | 136869     | SUMMIT LAW GROUP, PLLC        | LEGAL SERVICES, POLICE BARGAINING UNIT                         | \$ 412.50    | hr             |
| 305312        | 5/20/2022        | 2823224    | FOSTER GARVEY PC              | HUMAN RESOURCES MATTER NO. 32                                  | \$ 500.50    | legal          |
| 304913        | 5/20/2022        | 838159     | CASCADE COLUMBIA DISTRIBUTION | SODIUM FLUORIDE 80 BAGS/2 PALLETS                              | \$ 5,383.47  | dwwtp          |
| 305249        | 5/20/2022        | 9906989240 | VERIZON WIRELESS              | SCADA COMMUNICATION 4/21-5/20/22                               | \$ 1,205.40  | dwwtp          |
| 305301        | 5/20/2022        | P0001-66   | QCC QUALITY CONTROLS CORP.    | ON-CALL PROFESSIONAL SERVICES AT THE WWTP - MARCH & APRIL 2022 | \$ 4,827.00  | dwwtp          |
| 305302        | 5/20/2022        | P0001-67   | QCC QUALITY CONTROLS CORP.    | ON-CALL PROFESSIONAL SERVICES AT THE WWTP - MISC HARDWARE      | \$ 5,199.01  | dwwtp          |
| 305275        | 5/20/2022        | P0002-55   | QCC QUALITY CONTROLS CORP.    | ON-CALL PROFESSIONAL SERVICES AT THE WTP - APRIL 2022          | \$ 1,395.00  | dwwtp          |
| 305313        | 5/22/2022        | 09203      | ANCHOR QEA, LLC               | A AVENUE LANDFILL MATTER NO. 200                               | \$ 251.50    | legal          |
| 305315        | 5/22/2022        | 09208      | ANCHOR QEA, LLC               | WTP DEMO MATTER NO. 96                                         | \$ 6,025.02  | legal          |
| 305257        | 5/23/2022        | 1200434097 | HDR ENGINEERING, INC          | WASTEWATER TREATMENT PLANT OUTFALL - DESIGN - 3/27/22-4/23/22  | \$ 3,149.76  | dwwtp          |
| 305276        | 5/24/2022        | 111668     | VECA ELECTRIC & TECHNOLOGIES  | WASHINGTON PARK MAIN DISTRIBUTION PANEL                        | \$ 29,869.95 | parks1         |
| 305087        | 5/24/2022        | 175894     | FIDALGO ANIMAL MEDICAL CENTER | BLOODWORK AND CREMATION - APD CASE 22-A00003                   | \$ 205.72    | apd            |
| 305064        | 5/24/2022        | 321226     | BAY CITY SUPPLY               | 33 X 39 GARBAGE BAGS                                           | \$ 909.87    | pwfac          |
| 305310        | 5/25/2022        | 7182       | TCA ARCHITECTURE PLANNING INC | FIRE STATION PLANNING AND DESIGN SERVICES - APRIL 2022         | \$ 215.00    | medic          |
| 305176        | 5/26/2022        | 0285310-IN | REISNER DISTRIBUTOR INC       | INCINERATOR FUEL                                               | \$ 1,812.18  | dwwtp          |
| 305314        | 5/26/2022        | 09244      | ANCHOR QEA, LLC               | FORMER WTP MATTER NO. 96                                       | \$ 313.00    | legal          |
| 304937        | 5/26/2022        | 262773     | NAPA                          | THERMOSTAT #2003                                               | \$ 99.68     | dshop          |
| 304939        | 5/26/2022        | 36445      | WESTERN SYSTEMS REFUSE &      | GRIP ARM, GRIPPER BELT #304                                    | \$ 545.73    | dshop          |
| 305284        | 5/26/2022        | 9327079716 | GRAYBAR ELECTRIC COMPANY, INC | TRAYS FOR FIBER OPTIC SPLICE CASES                             | \$ 1,349.99  | fiber          |
| 305178        | 5/26/2022        | 9907494769 | VERIZON WIRELESS              | WTP SCADA 4/27-5/26/22                                         | \$ 514.30    | dwwtp          |
| 305274        | 5/27/2022        | 17092 - 17 | H W LOCHNER, INC              | R AVE LONG-TERM IMPROVEMENT - ENGINEERING - 5/1/22-5/27/22     | \$ 436.35    | pw1            |
| 305071        | 5/27/2022        | 2134       | THE CLEAN TEAM                | JANITORIAL SERVICES FOR CITY HALL AND ASAC 5/27/2022           | \$ 120.00    | pwfac          |
| 304935        | 5/27/2022        | 262935     | NAPA                          | WATER PUMP KIT #2003                                           | \$ 128.61    | dshop          |
| 304938        | 5/27/2022        | 812-26347  | GCR TIRES & SERVICE           | FLAT REPAIR #203                                               | \$ 66.36     | dshop          |

| Invoice Doc # | Transaction Date | Invoice #            | Vendor Full Name               | Description                                                         | Total Amount | Approval Queue |
|---------------|------------------|----------------------|--------------------------------|---------------------------------------------------------------------|--------------|----------------|
| 305070        | 5/27/2022        | 96853                | BLYTHE MECHANICAL, INC         | HVAC REPAIR @ LIBRARY SERVER ROOM                                   | \$ 1,216.75  | pwfac          |
| 305142        | 5/28/2022        | 1059559              | FERGUSON ENTERPRISES, INC      | MXU'S PRO-RATED                                                     | \$ 393.70    | wdist          |
| 305091        | 5/28/2022        | 360-293-4900-0912865 | ZIPLY FIBER                    | APD BAC LINE 5/28-6/27/22                                           | \$ 84.35     | apd            |
| 304988        | 5/28/2022        | 360-293-6427-0218975 | ZIPLY FIBER                    | CITY HALL 911 5/28-6/27/22                                          | \$ 77.93     | finance        |
| 305153        | 5/28/2022        | 360-293-9063-0926075 | ZIPLY FIBER                    | STATION 3 WIFI 5/28-6/27/22                                         | \$ 86.67     | medic          |
| 305182        | 5/28/2022        | 360-299-0813-1017915 | ZIPLY FIBER                    | WWTP 5/28-6/27/22                                                   | \$ 307.84    | dwwtp          |
| 305296        | 5/28/2022        | 360-299-2484-0726025 | ZIPLY FIBER                    | LIBRARY PHONE 5/28-6/27/22                                          | \$ 56.03     | publib         |
| 304990        | 5/28/2022        | 360-299-3674-0214175 | ZIPLY FIBER                    | OPS 05/28 - 06/27/22                                                | \$ 69.96     | dshop          |
| 305089        | 5/28/2022        | 360-299-6615-0615165 | ZIPLY FIBER                    | APD 911 LINE 5/28-6/27/22                                           | \$ 71.54     | apd            |
| 305090        | 5/28/2022        | 360-588-9248-0619005 | ZIPLY FIBER                    | APD BACKUP LINE 5/28-6/27/22                                        | \$ 203.91    | apd            |
| 305081        | 5/28/2022        | 9907562233           | VERIZON WIRELESS               | City Cell Phones 34/29-5/28/22                                      | \$ 10,947.76 | finance        |
| 305291        | 5/29/2022        | 59769916             | INGRAM LIBRARY SERVICES, LLC   | INGRAM BATCH 5-29-22                                                | \$ 378.29    | publib         |
| 305243        | 5/31/2022        | 0173                 | SKAGIT COUNTY SOLID WASTE FUND | MAY TONNAGE HAULED                                                  | \$ 91,815.32 | dshop          |
| 305260        | 5/31/2022        | 10471975             | NAVIA BENEFIT SOLUTIONS, INC   | MAY, FLEXIBLE SPENDING ACCOUNT FEES                                 | \$ 124.50    | hr             |
| 305246        | 5/31/2022        | 10788                | PETDATA, INC                   | PETDATA LICENSING FEES MAY                                          | \$ 147.00    | finance        |
| 305067        | 5/31/2022        | 197476               | LAKESIDE INDUSTRIES, INC.      | ASPHALT                                                             | \$ 3,687.97  | dshop          |
| 305146        | 5/31/2022        | 197721               | LAKESIDE INDUSTRIES, INC.      | PARKS MAINTENANCE SUPPLIES                                          | \$ 239.46    | parks1         |
| 305143        | 5/31/2022        | 2050118              | UTILITIES UNDERGROUND LOCATION | MAY UTILITY LOCATES                                                 | \$ 304.44    | dshop          |
| 305280        | 5/31/2022        | 2132                 | SKAGIT COUNCIL OF GOVERNMENTS  | STAFFING SERVICES FOR GROWTH MANAGEMENT ACT SUPPORT: 1/1/22-3/31/22 | \$ 812.96    | plan           |
| 305180        | 5/31/2022        | 213312               | INFOSEND, INC.                 | MAY 2022 PROCESSING                                                 | \$ 3,618.50  | finance        |
| 304936        | 5/31/2022        | 263152               | NAPA                           | BATTERY #034                                                        | \$ 145.74    | dshop          |
| 304997        | 5/31/2022        | 300000006951         | PUGET SOUND ENERGY INC         | STREET LIGHTS: 04/29- 05/27/22                                      | \$ 457.60    | dshop          |
| 305003        | 5/31/2022        | 300000290043         | PUGET SOUND ENERGY INC         | STREET LIGHTS: 04/02- 05/02/22                                      | \$ 33,038.42 | dshop          |
| 305005        | 5/31/2022        | 300000325005         | PUGET SOUND ENERGY INC         | STREET LIGHTS: 04/08- 05/06/22                                      | \$ 83.99     | dshop          |
| 305007        | 5/31/2022        | 300000340004         | PUGET SOUND ENERGY INC         | STREET LIGHTS: 04/29- 05/27/22                                      | \$ 81.35     | dshop          |
| 305319        | 5/31/2022        | 3093905042           | LEXISNEXIS                     | LEXIS NEXIS LEGAL ON-LINE RESEARCH - MAY 2022                       | \$ 332.93    | legal          |
| 305307        | 5/31/2022        | 386000156            | US BANK NA - CUSTODY TREAS DIV | INVESTMENT FEES 5/1-5/31/22                                         | \$ 38.00     | finance        |
| 305245        | 5/31/2022        | 39964                | ZUMAR INDUSTRIES, INC.         | SCHOOL ZONE SIGNS                                                   | \$ 447.44    | dshop          |
| 305162        | 5/31/2022        | 41480                | PACIFIC SECURITY               | SECURITY DETAIL - MAY 2022                                          | \$ 691.25    | court          |
| 304911        | 5/31/2022        | 773055               | REECE, STORMIE                 | DEPOT CLEANING-MAY 2022                                             | \$ 924.00    | parks1         |

| Invoice Doc # | Transaction Date | Invoice #            | Vendor Full Name              | Description                                                           | Total Amount | Approval Queue |
|---------------|------------------|----------------------|-------------------------------|-----------------------------------------------------------------------|--------------|----------------|
| 305161        | 5/31/2022        | 9020577002           | LANGUAGE LINE SERVICES, INC   | TELEPHONE INTERPRETER SERVICES IN COURT ROOM                          | \$ 13.43     | court          |
| 304933        | 5/31/2022        | 996363               | USA BLUE BOOK                 | LAB NITRILE GLOVES                                                    | \$ 860.60    | dwtpt          |
| 304991        | 5/31/2022        | CL44198              | REISNER DISTRIBUTOR INC       | VEHICLE FUEL - MAY 2022                                               | \$ 38,350.38 | finance        |
| 305282        | 5/31/2022        | CO0120               | MARKER DDS, TIMOTHY J         | DENTAL SERVICES, LEOFF 1 RETIRE                                       | \$ 302.00    | hr             |
| 305285        | 5/31/2022        | FB-1902              | CITY OF MOUNT VERNON          | DARK FIBER                                                            | \$ 350.00    | fiber          |
| 305084        | 6/1/2022         | 021296366            | GALLS, LLC.                   | UNIFORM SHIRT; CAPTAIN PRUIETT                                        | \$ 76.52     | apd            |
| 305250        | 6/1/2022         | 052-0010-00          | CITY OF ANACORTES             | OPS 5/1 - 5/31/22                                                     | \$ 1,545.09  | dshop          |
| 305295        | 6/1/2022         | 1000219444           | OCLC, INC                     | CATALOGING, ILL, FIRSTSEARCH/WORLDCAT DISCOVERY (6-1 TO 6-30 2022)    | \$ 379.03    | publib         |
| 305060        | 6/1/2022         | 11762                | PARTNER CONSTRUCTION PRODUCTS | OPERATING SUPPLIES                                                    | \$ 433.98    | dshop          |
| 305015        | 6/1/2022         | 11763                | PARTNER CONSTRUCTION PRODUCTS | CRACK SEALANT                                                         | \$ 2,105.28  | dshop          |
| 305305        | 6/1/2022         | 1200436530           | HDR ENGINEERING, INC          | INTAKE PUMP STATION REDUNDANCY AND RESILIENCY STUDY - 4/24/22-5/21/22 | \$ 10,369.80 | dwtpt          |
| 304987        | 6/1/2022         | 132485               | VENTEK INTERNATIONAL          | WA PARK PAY STATION HOST FEE 6/1-6/30/22                              | \$ 135.00    | parks1         |
| 305244        | 6/1/2022         | 190-1840-00          | CITY OF ANACORTES             | WWTP 5/1-5/31/22                                                      | \$ 6,641.71  | dwwtp          |
| 305077        | 6/1/2022         | 200012505505         | PUGET SOUND ENERGY INC        | WTP 5/1/22-5/31/22                                                    | \$ 74,834.52 | dwtpt          |
| 305272        | 6/1/2022         | 2020-84              | CURTIS EMERGENCY SERVICES LLC | EMERGENCY MANAGEMENT SERVICES - APRIL & MAY 2022                      | \$ 945.00    | medic          |
| 305008        | 6/1/2022         | 220025931985         | PUGET SOUND ENERGY INC        | STREET LIGHTS: 05/03-06/01/22                                         | \$ 7.79      | dshop          |
| 305252        | 6/1/2022         | 2381352-0043-0       | WASTE MANAGEMENT              | WTP GARBAGE, RECYCLE PICKUP 5/1-5/31/22                               | \$ 191.10    | dwtpt          |
| 305145        | 6/1/2022         | 2414                 | OAB ENGINEERING, LLC          | WIFI FOR JUNE - 29-3                                                  | \$ 150.00    | medic          |
| 305078        | 6/1/2022         | 248 984 6277 5       | CASCADE NATURAL GAS CORP.     | WTP 4/29-5/31/22                                                      | \$ 4,717.26  | dwtpt          |
| 304934        | 6/1/2022         | 263313               | NAPA                          | SUPPLIES- #90013                                                      | \$ 101.16    | dshop          |
| 305141        | 6/1/2022         | 263377               | NAPA                          | SPARK PLUGS                                                           | \$ 16.05     | dshop          |
| 305140        | 6/1/2022         | 263412               | NAPA                          | OIL FILTER #850                                                       | \$ 4.83      | dshop          |
| 305170        | 6/1/2022         | 291528               | ANACORTES ANIMAL HOSPITAL     | BOARD & DISTRAINER; MAY 2022                                          | \$ 230.00    | apd            |
| 305158        | 6/1/2022         | 360-293-0045-0223175 | ZIPLY FIBER                   | STA 1 BACKUP LINES 6/1-6/30/22                                        | \$ 158.28    | medic          |
| 305085        | 6/1/2022         | 5064732768           | RICOH USA, INC                | S/N C86138600 APD HALLWAY 03/01-5/31/22                               | \$ 33.91     | apd            |
| 305011        | 6/1/2022         | 5064732964           | RICOH USA, INC                | S/N C86150637 CARNEGIE 3/1-5/31/22                                    | \$ 52.50     | museum         |
| 305012        | 6/1/2022         | 5064733045           | RICOH USA, INC                | S/N C86152062 HR COPIES 5/1-5/31/22                                   | \$ 8.49      | finance        |
| 305013        | 6/1/2022         | 5064733096           | RICOH USA, INC                | S/N C86079893 LIBRARY PUBLIC 3/1-5/31/22                              | \$ 84.37     | publib         |
| 305014        | 6/1/2022         | 5064733285           | RICOH USA, INC                | S/N C86111493 COURT 3/1-5/31/22                                       | \$ 97.18     | finance        |
| 305086        | 6/1/2022         | 5064733479           | RICOH USA, INC                | S/N C86138599 APD FRONT OFFICE COPIES 5/1-5/31/22                     | \$ 27.83     | apd            |
| 305256        | 6/1/2022         | GB00100301           | TRANSAMERICA LIFE INS CO      | JUNE LEOFF LONG-TERM CARE INSURANCE                                   | \$ 634.98    | hr             |

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|---------------|------------------|---------------------|--------------------------------|----------------------------------------------------|---------------|----------------|
| 304912        | 6/1/2022         | ReimbMiller         | MILLER, MATTHEW                | PER DIEM REIMBURSEMENT-MILLER 5/23-5/28/22         | \$ 208.88     | executive      |
| 305171        | 6/2/2022         | 021308455           | GALLS, LLC.                    | UNIFORM SHIRTS; CAPT PRUIETT                       | \$ 71.61      | apd            |
| 305010        | 6/2/2022         | 12126               | C & C TIMBER INC               | FIREWOOD FOR RESALE                                | \$ 2,268.00   | parks1         |
| 305088        | 6/2/2022         | 22006900            | WASHINGTON STATE PATROL        | BACKGROUND CHECKS; MAY 2022                        | \$ 92.75      | apd            |
| 305065        | 6/2/2022         | 321226A             | BAY CITY SUPPLY                | FACILITY SUPPLIES                                  | \$ 563.57     | pwfac          |
| 305093        | 6/2/2022         | 8498 30 017 0319913 | COMCAST                        | LIBRARY INTERNET ACCESS 6/9-7/8/22                 | \$ 185.14     | fiber          |
| 305148        | 6/2/2022         | ContractFootball    | SEAHAWK ATHLETIC BOOSTER ASSOC | SABA CONTRACTED SERVICES-FOOTBALL                  | \$ 3,474.09   | pkrec          |
| 304985        | 6/2/2022         | E 202206020015      | SIMPLIFILE, LC                 | ROBINSON FIBER EASEMENT - 3814 LEEWARD LANE        | \$ 216.38     | fiber          |
| 304992        | 6/2/2022         | E 202206020031      | SIMPLIFILE, LC                 | LEARMONTH TRUST FIBER EASEMENT - 3718 LEEWARD LANE | \$ 216.38     | fiber          |
| 305009        | 6/2/2022         | I22007111           | WASHINGTON STATE PATROL        | SEASONAL EMPLOYEE BACKGROUND CHECK                 | \$ 11.00      | parks1         |
| 305183        | 6/3/2022         | 001244              | USA BLUE BOOK                  | FLUORIDE ANALYZER MAINTENANCE KIT                  | \$ 324.54     | dwtp           |
| 305152        | 6/3/2022         | 1189                | LAW OFFICE OF CARA LORENZO     | PUB DEF CONFL                                      | \$ 645.00     | court          |
| 305151        | 6/3/2022         | 1190                | LAW OFFICE OF CARA LORENZO     | PUB DEF CONFL                                      | \$ 7.50       | court          |
| 305150        | 6/3/2022         | 1191                | LAW OFFICE OF CARA LORENZO     | PUB DEF CONFL                                      | \$ 22.50      | court          |
| 305149        | 6/3/2022         | 1192                | LAW OFFICE OF CARA LORENZO     | PUB DEF CONFL                                      | \$ 75.00      | court          |
| 305154        | 6/3/2022         | 1193                | LAW OFFICE OF CARA LORENZO     | PUB DEF CONFL                                      | \$ 525.00     | court          |
| 305281        | 6/3/2022         | 1938789             | MILES SAND & GRAVEL CO.        | 1-3/8" WASHED ROCK                                 | \$ 282.88     | wdist          |
| 305144        | 6/3/2022         | 5110935693          | CINTAS CORPORATION             | FIRST AID SUPPLIES - VARIOUS DEPTS                 | \$ 526.22     | finance        |
| 305073        | 6/3/2022         | E 202206030052      | SIMPLIFILE, LC                 | FIBER EASEMENT - P33409                            | \$ 217.38     | fiber          |
| 305074        | 6/3/2022         | E 202206030053      | SIMPLIFILE, LC                 | FIBER EASEMENT - P135161                           | \$ 217.38     | fiber          |
| 305075        | 6/3/2022         | E 202206030054      | SIMPLIFILE, LC                 | THE RIDGE CONDOMINIUM FIBER EASEMENT               | \$ 216.38     | fiber          |
| 305076        | 6/3/2022         | E 202206030063      | SIMPLIFILE, LC                 | FIBER EASEMENT                                     | \$ 216.38     | fiber          |
| 305092        | 6/3/2022         | E 202206030095      | SIMPLIFILE, LC                 | JENSEN FIBER EASEMENT - 2515 LUPINE LANE           | \$ 216.38     | fiber          |
| 305290        | 6/5/2022         | 59872748            | INGRAM LIBRARY SERVICES, LLC   | BATCH INVOICES 6-5-2022                            | \$ 283.15     | publib         |
| 305258        | 6/5/2022         | 636278              | PAPE MACHINERY INC.            | SERVICE/REPAIR #714                                | \$ 662.88     | dshop          |
| 305169        | 6/6/2022         | 06/06/2022          | FIDALGO CLEANING               | APD CLEANING & SUPPLIES                            | \$ 800.00     | apd            |
| 305184        | 6/6/2022         | 202448              | OASYS INC                      | PLOTTER CHARGE BASE AND CONTRACT 6/9-7/8/22        | \$ 186.16     | pw1            |
| 305179        | 6/6/2022         | 7210573198          | CARDINAL HEALTH 110, INC.      | AMIODARONE, KETALAR, CALCIUM CL,                   | \$ 1,650.53   | medic          |
| 305283        | 6/6/2022         | 9327191025          | GRAYBAR ELECTRIC COMPANY, INC  | CONDUIT FOR FIBER PROJECT                          | \$ 112,014.60 | fiber          |
| 305185        | 6/6/2022         | 9332549485          | GRAINGER                       | MAINTENANCE SUPPLIES                               | \$ 21.48      | dwwtp          |
| 305242        | 6/6/2022         | 9335335064          | GRAINGER                       | PRESSURE REDUCING VALVE                            | \$ 2,746.98   | wdist          |
| 305164        | 6/6/2022         | E 202206060031      | SIMPLIFILE, LC                 | DUBNOFF-LOWE FIBER EASEMENT - 3506 OAKES VIEW LANE | \$ 216.38     | fiber          |
| 305165        | 6/6/2022         | E 202206060032      | SIMPLIFILE, LC                 | FREES FIBER EASEMENT - 3404 OAKES VIEW LANE        | \$ 216.38     | fiber          |

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| 305255        | 6/7/2022         | 03188           | SKAGIT COUNTY SHERIFF'S OFFICE | JAIL TAX PAYMENT PER CONTRACT  | \$ 91,678.25 | finance        |
| 305253        | 6/7/2022         | 21-043-FIN-001  | ANACORTES FAMILY CENTER        | AFFORDABLE HOUSING TAX PAYMENT | \$ 32,775.66 | finance        |
| 305304        | 6/7/2022         | 21-096-TRN-0011 | PRECISION CONCRETE CUTTING INC | RETAINAGE RELEASE              | \$ 3,935.59  | pw1            |
| 305294        | 6/7/2022         | 21-110-ERR-0011 | CUMMINS, INC.                  | RETAINAGE RELEASE              | \$ 2,225.69  | pw1            |
| 305322        | 6/7/2022         | 21-186-WTR-0011 | BECKWITH & KUFFEL              | RETAINAGE RELEASE              | \$ 544.00    | pw1            |
| 305325        | 6/7/2022         | 21-220-FAC-0011 | SCHINDLER ELEVATOR CORPORATION | RETAINAGE RELEASE              | \$ 133.61    | pw1            |
| 305254        | 6/7/2022         | 21-247-FIN-001  | ANACORTES HOUSING AUTHORITY    | AFFORDABLE HOUSING TAX PAYMENT | \$ 32,775.66 | finance        |
| 305326        | 6/7/2022         | 420-0720-02     | BRUNSON, DONALD                | UB Refund Cst #059328          | \$ 102.89    | finance        |
| 305358        | 6/8/2022         | PARKER2022      | PARKER, IRENE                  | FINAL PAYCHECK - JEFF PARKER   | \$ 3,435.40  | finance        |

**Total** **\$791,496.42**



## City Council Agenda Bill

**Meeting Date:** June 13, 2022

**Agenda Item:** 5.d.

**Agenda Item Title:** Contract Award: 2022 Cape Seal Preparation #22-151-TRN-001

**Staff Contact(s):** TIM HOHMANN, BRIAN MCDANIEL

**Approved for Submittal to Council by**    **Action Type**  
TIFFANY MATSON                                      Contract Award

**Item Summary:** City staff seeks City Council consent to award a contract in the amount of \$115,000.00 to Lakeside Industries, Inc. to perform the 2022 Cape Seal Preparation project. Work includes pavement repairs, asphalt patching and asphalt pre-leveling in preparation for cape seal. Roadways include 37th St from Commercial Ave east to dead end; O Ave from Haddon Rd to 41st St; and Whistle Lake Rd from Haddon Rd to Hillcrest Dr.

### **Background:**

1. **History:** A cape seal project is planned for the above referenced City roads to be completed this summer by Skagit County during the County's annual Chip Seal Program. The cape seal will be completed under the City's interlocal agreement with Skagit County. A cape seal is a chip seal covered with a fog seal. The subject roadways require some repair, patching and pre-leveling of bad spots prior to cape sealing. This project will complete those repairs.
2. **Key Terms:**
  - Contract is on a time and materials basis not-to-exceed \$115,000.00.
  - The Contractor shall complete the work by December 31, 2022.
3. **Competitive Bidding:** In accordance with competitive bid requirements set forth under RCW 35.23.352 the project cost is under the competitive requirements and thus the Project Manager evaluated contractors and chose to contract with Lakeside Industries, Inc.

### **Budget Impact:**

|                 |                           |
|-----------------|---------------------------|
| Contractor      | Lakeside Industries, Inc. |
| Contract Amount | \$115,000.00              |
| Earmarked Funds | \$115,000.00              |

|                            |                   |
|----------------------------|-------------------|
| BARS #                     | 104.720.542.30.41 |
| Budget Amendment Required? | No                |
| Start Date                 | Notice to Proceed |
| End Date                   | 12/31/22          |

**Previous Action:** N/A

**Recommended Motion:** I move that City Council authorize the Mayor to sign contract 22-151-TRN-001 with Lakeside Industries, Inc. in the amount of \$115,000.00 to perform the 2022 Cape Seal Preparation.

**Alternative Actions:** Not approve the agreement.

**Attachments (listed in order presented):**

1. 22-151-TRN-001



CONTRACT 22-151-TRN-001  
AGREEMENT WITH  
**LAKE SIDE INDUSTRIES, INC.**

This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and Lakeside Industries, Inc., a private contractor at PO Box 729, Anacortes, WA 98221 (herein after referred to as "Contractor").

PROJECT  
**2022 Cape Seal Preparation**

1. **Scope of Work:** Contractor shall furnish all materials, equipment, and labor to perform pavement repairs, asphalt patching and asphalt pre-leveling in preparation for cape seal. Roadways include 37th St from Commercial Ave east to dead end; O Ave from Haddon Rd to 41st St; and Whistle Lake Rd from Haddon Rd to Hillcrest Dr, as detailed in Exhibit A, which is hereby incorporated by reference and made a part hereof. Estimate includes a total of approximately 50,400 square feet of asphalt coverage. Contractor will provide traffic control. Work is subject to the 2018 City of Anacortes Engineering Standards, which are hereby incorporated by reference and made a part hereof.
2. **Contract Price:** The Contractor will perform the scope of work above on a time and materials basis not-to-exceed **One Hundred Fifteen Thousand Dollars (\$115,000.00)**. Rule 171 applies. This includes all labor, materials, and standard freight for the project. Before any payment is made by the City of Anacortes of sums under this contract, the contractor must provide a copy of the statement of *Intent to Pay Prevailing Wage* approved by the Department of Labor and Industries. Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the contractor will be retained.
3. **Bonds:** Pursuant to RCW 39.08.010, the Contractor shall provide the City a performance bond and payment bond for the full contract amount to be in effect as detailed in the incorporated General Provisions. The City may at its option release the bonds once all the conditions of RCW 39.08.010-1a have been discharged.
4. **Time of Completion:** The Contractor shall complete the work by December 31, 2022 as scheduled and directed by the Project Manager.
5. **Project Management.** Coordination and scheduling of the work, materials, and equipment shall be made with the Project Manager Justin Symonds, (360) 299-1972.
6. **Contract Requirements:** Contractor must have a contractor license number, insurance, and City of Anacortes business license. **Prevailing Wage Law Applies.** Forms Needed: 1) Proof of Insurance with Additional Insured Endorsement (see General Provisions); 2) Intent to Pay Prevailing Wage; 3) Affidavit of Wages Paid; 4) Performance Bond; 5) Payment Bond; 6) Certification of Compliance with Wage Payment Statutes.
7. **Contract Documents:** The attached General Provisions, Exhibit A, and the 2018 City of Anacortes Engineering Standards are included in this Contract Agreement.

**The parties acknowledge** that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that they are signing with full and complete authority to bind the party on whose behalf of whom they are signing, to each and every term of this Agreement.

**Owner:**

City of Anacortes

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

**Contractor:**

Lakeside Industries, Inc.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor License #



# City of Anacortes

## Cape Seal 2022 Project Area



Contract 22-151-TRN-001  
EXHIBIT A



**1. WASHINGTON STATE PREVAILING WAGES:** Washington State Prevailing Wages apply to all Work. The Contractor and any of its Subcontractors are required to pay their laborers and mechanics minimum wage in compliance with Washington State Prevailing Wage Laws. Before any payment is made by the City of Anacortes of any sums under this contract, the contractor and each subcontractor must provide the City with a copy of the statement of *Intent to Pay Prevailing Wages* approved by the Washington State Department of Labor and Industries (L&I) (*ONE (1) filed per contractor and each subcontractor per contract*). Following contract completion, the City will not release any funds retained, according to the provisions of RCW 60.28.010, until the contractor and each subcontractor has provided the City a copy of the *Affidavit of Wages Paid* approved by L&I (*ONE (1) filed per contractor and each subcontractor per contract*). L&I provides the wage forms. ***All costs associated with such fees shall be included in the Contract price as part of the fixed costs of overhead for this Contract, including any anticipated subcontractor filing fees. Any change in the fee by L&I will not be grounds for revision in the Contract Amount. The City will only pay for the actual cost charged by L&I for the filing of the intent and affidavit.***

For contracts in excess of \$10,000, the contractor must post in a conspicuous place at the job site, a copy of the statement of *Intent to Pay Prevailing Wages* approved by L&I and the address and phone number of the Industrial Statistician where complaints or inquiries may be made. The City will refer any dispute regarding the prevailing rate of wage to L&I for arbitration.

The State of Washington prevailing wage rates applicable for this public works project, which is located in Skagit County, may be found at the following website address of the Department of Labor and Industries: <https://secure.lni.wa.gov/wagelookup/>. The prevailing wage schedule in effect for the work under the contract will be the one in effect upon the date of execution of the contract. A copy of the applicable prevailing wage rates are also available for viewing at the office of the Owner, located at 904 6<sup>th</sup> Street, Anacortes, WA. Upon request, the Owner will mail a hard copy of the applicable prevailing wages for this project.

At least once a month Contractor must file weekly certified payroll reports online with the Washington Department of Labor and Industries as required by RCW 39.12.120.

**2. Performance and Payment Bonds.** The City is required by RCW 39.08.010, with limited exceptions, to obtain both a Performance and a Payment bond for each public works project. The City requires separate Performance and Payment bonds for 100% of the contract amount furnished on bond forms standardized by the City Attorney's office. The bonds must meet the following provisions:

- Be for the full amount of the project, including tax.
- Name City of Anacortes as the obligee.
- List the correct Project Name and Project Number.
- Be signed by both the surety (the Attorney in Fact) and the Contractor.
- Be issued by a surety authorized to do business in the State of Washington (listed on the Insurance Commissioners website) and which meets the AM Best Rating required in the Contract Documents. If no requirement exists, a minimum of AM Best Rating A-7 or better will be required.

#### *Release of Bonds*

Bonds will not be released until the project has been completed and finally accepted.

**Performance Bonds** – Performance Bonds will be released at the end of the warranty period or twelve months after the date of final acceptance, whichever is later. The City may at its option release the bond once all the conditions of RCW 39.08.010-1a have been discharged.

**Payment Bonds** – Payment Bonds will be released either 45 days after final acceptance of the project or upon receipt of releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries, whichever is later. Release is contingent on the fact that no claims against the bond have been filed prior to the 45 day mark. If claims have been filed against the bond, it will not be released until the claims have been resolved.

**Exceptions** – On projects \$150,000 and under, the Contractor can, in lieu of providing a performance and payment bond, request to have the City withhold 10% of monies earned on the project for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later. This exception is dependent on pre-approval by the City Attorney, and the City reserves the right to reject requests to waive the bond requirements.

**3. Retainage.** Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the Contractor will be retained. The Contractor may elect to execute a Retainage Bond. The bond must be furnished on a bond form standardized by the City Attorney's office and issued by a surety currently authorized by the State Insurance Commissioner to do business in Washington State. Retainage will be released **45 days after final acceptance**, provided that the following has occurred:

1. All liens placed against the project have been released. For projects over \$35,000, releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries will also be required.

2. Affidavits of Wages paid for the final correct contract amount are approved and on file for the Contractor and any subcontractors.
3. Worker's Compensation Premiums for the Contractor and any subcontractors are current.

Note: If the City has approved the Contractor's request to waive the bond requirements, the City will withhold a total of 10% of the monies earned for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Securities Department, and the Washington Department of Labor and Industries, and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

**4. Subcontracts.** The Contractor shall not subcontract the Scope of Work ("Work") unless the Project Manager approves in writing. If the Project Manager requests, the Contractor shall provide proof that the Subcontractor has the experience, ability, and equipment the Work requires. "Subcontractor" means an individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Contractor. Each request to subcontract shall include the following information (i) a description of the supplies or services to be subcontracted, (ii) identification of the type of subcontract to be used (iii) identification of the proposed subcontractor, (iv) proposed subcontract price, (v) identification of the percentage of work to be performed by subcontract. Approval of subcontract shall not:

- a. Relieve the Contractor of any responsibility to carry out the Contract,
- b. Relieve the Contractor of any obligations or liability under the Contract and the Contractor's bond,
- c. Create any contract between the City and the Subcontractor, or
- d. Convey to the Subcontractor any rights against the City.

As required by RCW 39.06.020, the Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification is to include that, at the time of subcontract execution, each subcontractor meets the responsibility criteria listed in RCW 39.04.350(1) and additionally - if applicable - possesses an electrical contractor license or an elevator contractor license. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier. The Contractor shall give immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the City.

If dissatisfied with any part of the subcontracted Work, the Project Manager may request in writing that the Subcontractor be removed. The Contractor shall comply with this request at once and shall not employ the Subcontractor for any further Work under the Contract.

**5. Job Safety & COVID-19 Safety Requirements Compliance.** The Contractor, and its subcontractors of any tier, shall comply with all Washington Dept. of Labor & Industries safety standards, as well as comply with all current and future COVID-19 proclamations, regulations, requirements and/or related guidance issued by the Office of the Governor of Washington State and Office of the Mayor of the City of Anacortes as it may relate to City of Anacortes projects.

**6. Taxes.** The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the City does not hold title. The City is exempt from Federal Excise Tax. Where applicable the City shall furnish a Federal Excise Tax Exemption certificate.

**7. Invoicing.** All invoices shall at a minimum include: Company Name, Invoice Date, Due Date (30 days), Invoice Number, **Agreement Number**, and Price. The Contractor must allow 30 calendar days from receipt of the invoice for payment. ***If requested by the City the Contractor shall provide a cost breakdown of charges.*** Invoices may be sent by US mail to City of Anacortes, Accounts Payable, PO Box 547, Anacortes, WA 98221, or by email to [accountspayable@cityofanacortes.org](mailto:accountspayable@cityofanacortes.org). Contractors may complete a City furnished ACH/EFT form to receive electronic payments directly to their financial institution. The City shall notify the Contractor within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Contractor shall then resubmit a new invoice less the disputed amount and payment shall be made within 30 calendar days. Any disputed amounts may be submitted under the Disputes clause contained herein.

**8. Withholding Payment.** In the event the City determines that the Contractor has failed to perform any obligation under this Contract within the times set forth in this Contract, then the City may withhold from amounts otherwise due and payable to Contractor the amount determined by the City as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to terminate or damages, provided that the City promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 8 days after it determines to withhold amounts otherwise due. A determination of the City Attorney set forth in such notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Contract. The City may act in accordance with any determination of the City Attorney which has become conclusive under this clause, without prejudice to any other remedy under the Contract, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any

amount so paid or incurred from amounts due to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the City under this clause.

**9. Final Payment: Waiver of Claim.** The contractor's acceptance of final payment (excluding withheld retainage) shall constitute a waiver of claims, except those previously and properly made and identified by the contractor as unsettled at the time request for final payment is made.

**10. Inspection.**

**A. Of the Work**

All materials furnished and work done shall be subject to inspection. The City Project Manager administering the Contract shall at all times have access to the work wherever it is in progress or being performed, and the Contractor shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Contractor of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of the Contract. All material or work approved and later found to be defective shall be replaced without cost to the City.

**B. Project Manager's Authority**

The Project Manager shall have power to reject materials or workmanship which do not fulfill the requirements of these Specifications, but in case of dispute the Contractor may appeal to the City Attorney whose decision shall be final. The Contract shall be carried out under the general control of the representative of the City administering the Contract, who may exercise such control over the conduct of the work as may be necessary, in his or her opinion, to safeguard the interest of the City. The Contractor shall comply with any and all orders and instructions given by the representative of the particular Department administering the Contract in accordance with the terms of the Contract. Nothing herein contained, however, shall be taken to relieve the Contractor of his/her obligations or responsibilities under the Contract.

**11. New and Unused.** All units, equipment, parts and material shall be new, unused, manufacturer's current model year and in current production and shall meet any current applicable regulations and/or codes. All materials shall have physical and chemical properties to withstand the intended purpose. Equipment design shall have sufficient excess capacity for durability and safety.

**12. Warranty.** The Contractor shall return to the project and repair or replace all defects in workmanship and material discovered within one year after Final Acceptance of the Work, including any necessary labor and materials. The Contractor shall start work to remedy any such defects within 7 calendar days of receiving City's written notice of a defect, and shall complete such work within the time stated in the City's notice. In case of an emergency, where damage may result from delay or where loss of services may result, such corrections may be made by the City's own forces or another contractor, in which case the cost of corrections shall be paid by the Contractor. In the event the Contractor does not accomplish corrections within the time specified, the work will be otherwise accomplished and the cost of same shall be paid by the Contractor. For one year after acceptance of any corrections by the City the Contractor shall be responsible for correcting all defects in workmanship and materials in the corrected work. In addition, the Contractor shall obtain and submit to the City any necessary documentation to secure any extended manufacturer's warranty and warranty terms. This guarantee is supplemental to and does not limit or affect the requirements that the Contractor's work comply with the requirements of the Contract or impact any other legal rights or remedies of the City.

**13. Indemnification / Hold Harmless.** The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**14. Insurance.**

**A. Insurance Term:** The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

**B. No Limitation:** The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**C. Minimum Scope of Insurance:** The Contractor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. **The City of Anacortes and its officers, elected officials, employees, agents, and volunteers shall be named as an additional insured** under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
  3. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- D. Minimum Amounts of Insurance:** The Contractor shall maintain the following insurance limits:
1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
  2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.
- E. City Full Availability of Contractor Limits:** If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.
- F. Other Insurance Provision:** The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
- G. Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- H. Verification of Coverage:** The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor **within 10 days of contract execution and before scheduling of the work**. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.
- I. Subcontractors' Insurance:** The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.
- J. Notice of Cancellation:** The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two (2) business days of their receipt of such notice.
- K. Failure to Maintain Insurance:** Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.
- 15. Acceptance.** Contractor acknowledges and agrees that these General Provisions are incorporated in, and are a part of, each purchase order or other agreement relating to the provision of goods and/or related services by Contractor. These General Provisions supersede all conflicting or additional terms pre-printed on any purchase order, quote, invoice, or otherwise set forth on any release, acknowledgement, confirmation, requisition, work order, shipping instruction, specification and similar document or communication.
- 16. Registered or Licensed Contractor.** The City is prohibited by RCW 39.06.010 from executing an Agreement with a Contractor who is not registered or licensed as required by the laws of the state. In addition, Anacortes Municipal Code requires that every person engaging in business within the city limits of Anacortes register their business with the state and include a City of Anacortes Endorsement. Businesses from outside city limits with a gross annual income of \$2,000 in Anacortes are also required to obtain a city endorsement. Business licenses and city endorsements can be obtained through the State of Washington Department of Revenue (DOR) Business Licensing Service (BLS) at [bls.dor.wa.gov](https://bls.dor.wa.gov).

**17. Standard Title VI / Non-Discrimination Assurances.** During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees to the clauses in "Appendix A" and "Appendix E" of the Standard Title VI Assurances (USDOT1050.2A), which are hereby incorporated by reference and made a part hereof.

**18. Contractor is an Independent Contractor.** The parties intend that an independent Contractor relationship will be created by this Agreement. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and Subcontractors during the performance of this Agreement.

**19. No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third-Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby, except as otherwise expressly provided for in this Agreement.

**20. The City's Right to Terminate Agreement.**

**A. Termination for Default:** If the Contractor defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the City may, by depositing written notice to the Contractor in the U.S. mail, postage prepaid, terminate the Agreement, and at the City's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Contractor shall not be entitled to receive any further payments under the Agreement until the Scope of Services under this Agreement has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

**B. Termination for Public Convenience:** The City may terminate the Agreement in whole or in part whenever the City determines, in its sole discretion that such termination is in the best interests of the City. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work through the date of termination. If the City exercises its option under this Paragraph, the City shall not be responsible for payment for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

**21. Changes/Additional Work.** The City may engage Contractor to perform services in addition to those listed in this Agreement, and Contractor will be entitled to additional compensation for authorized additional services or materials. The City shall not be liable for additional compensation until and unless any and all additional work and compensation is approved in advance in writing and signed by both parties to this Agreement. If conditions are encountered which are not anticipated in the Scope of Services, the City understands that a revision to the Scope of Services and fees may be required. Provided, however, that nothing in this paragraph shall be interpreted to obligate the Contractor to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this Agreement is approved in writing by both parties.

**22. Non-waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.

**23. Covenant Against Contingent Fees.** The Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**24. Disputes**

**A. General:** Differences between the Contractor and the City, arising under and by virtue of this Agreement shall be brought to the attention of the City at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The provisions of this Clause shall survive the expiration or termination of this Agreement.

**B. Notice of Potential Claims:** The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the City, or (2) the happening of any event or occurrence, unless the Contractor has given the City a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the City. The written Notice of Potential Claim

shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the Work performed, labor and all costs and additional time claimed to be additional.

**C. Detailed Claim:** The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the City, the Contractor has given the City a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

**D. Dispute Resolution:** In the event of a dispute between the City and the Contractor arising out of this Agreement, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Contractor to have oversight over the administration of this Agreement. Said representatives shall meet within thirty (30) calendar days of receipt of detailed claim, and the parties shall make a good faith effort to achieve a resolution of the dispute. In the event the parties are unable to resolve the dispute under the procedure set forth above, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. Any expenses incidental to mediation shall be borne equally by the parties. If either party is dissatisfied with the outcome of the mediation, that party may then pursue any available judicial remedies.

**25. Force Majeure.** Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of Force Majeure. For the purposes of this Agreement, Force Majeure means an occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force Majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; freight embargoes; epidemics; pandemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall give the other party prompt written notice of the impediment and its effect on the ability to perform, with such notice to be provided no more than two (2) working days after the force majeure event or reasonable discovery of the event's impact on performance. Failure to provide such notice shall preclude recovery under this provision. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. Rights Reserved: The City reserves the right to cancel the Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the City.

**26. Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Washington. Any action brought under the Agreement or relating to the Project shall be brought in the Superior Court of the State of Washington in Skagit County Washington.

**27. Compliance with Laws.** The Contractor in the performance of this Agreement shall comply with all applicable Federal, State or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services. Contractor will follow all applicable laws and requirements for excavation and disposal of material.

**28. Severability.** If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

**29. Survival of Contract Termination.** The provisions of the following paragraphs, the provisions of the non collusion affidavit, and the liability of the Contractor for default during the term of the Contract shall survive, notwithstanding the termination or invalidity of this Contract for any reason: Taxes; Warranty; The City's Right to Terminate Contract; Governing Law; Indemnification / Hold Harmless; Disputes.

**30. Notices.** Receipt of any notice shall be deemed effective three days after deposit of written notice in the U.S. mail, with proper postage and properly addressed. Notices shall be sent to the following addresses:

## CITY:

City of Anacortes  
Tiffany Matson  
904 6th Street  
PO Box 547  
Anacortes, WA 98221

## CONTRACTOR:

Lakeside Industries, Inc.  
Justin Blouin  
P.O. Box 729  
Anacortes WA, 98221

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Washington State Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Washington State Department of Transportation to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Washington State Department of Transportation, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Washington State Department of Transportation may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment,

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Washington State Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



# City Council Agenda Bill

**Meeting Date:** June 13, 2022

**Agenda Item:** 5.e.

**Agenda Item Title:** Contract Award: 2022 Western Avenue Waterline Project #22-163-WTR-001

**Staff Contact(s):** TIM HOHMANN, BRIAN MCDANIEL

|                                                    |                           |
|----------------------------------------------------|---------------------------|
| <b><u>Approved for Submittal to Council by</u></b> | <b><u>Action Type</u></b> |
| TIFFANY MATSON                                     | Contract Award            |

**Item Summary:** City staff seeks City Council consent to award a contract in the amount of \$69,795.85 to Larry Brown Construction, Inc. to perform the 2022 Western Avenue Waterline Project. Work includes the installation of approximately 450 LF of 8-inch ductile iron watermain and a City provided fire hydrant.

## **Background:**

**1.History:** This project will replace an undersized 2" galvanized waterline that is in severely poor condition. This deficient water line is the only source of water for the homes on Puget Way. Replacing this water line with 8" ductile iron will allow for a fire hydrant to be installed along Puget Way and help address a need for fire protection to these homes.

In the past, there have been several issues with this undersized 2" galvanized water line delivering water to the customers on Puget Way. The city recently had another water leak along the waterline. This existing 2" waterline is the only source of water for these homes. If this waterline fails they could be out of water for a significant amount of time. This waterline is in severely poor condition and it needs to be replaced as soon as possible.

## **2. Key Terms:**

- Contract is for a firm fixed price of \$69,795.85.
- The Contractor shall complete the work by July 31, 2022.

**3.Competitive Bidding:** In accordance with competitive bid requirements set forth under RCW 35.23.352 the project cost is under the competitive requirements and thus the Project Manager evaluated contractors and chose to contract with Larry Brown Construction, Inc.

**Budget Impact:**

|                            |                                |
|----------------------------|--------------------------------|
| Contractor                 | Larry Brown Construction, Inc. |
| Contract Amount            | \$69,795.85                    |
| BARS #                     | 401.000.594.34.63              |
| Budget Amendment Required? | No                             |
| Start Date                 | Notice to Proceed              |
| End Date                   | 7/31/22                        |

**Previous Action:** N/A

**Recommended Motion:** I move that City Council authorize the Mayor to sign contract 22-163-WTR-001 with Larry Brown Construction, Inc. in the amount of \$69,795.85 to perform the 2022 Western Avenue Waterline Project.

**Alternative Actions:** Not approve the contract.

**Attachments (listed in order presented):**

1. 22-163-WTR-001



CONTRACT 22-163-WTR-001  
AGREEMENT WITH  
**LARRY BROWN CONSTRUCTION, INC.**

This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and Larry Brown Construction, Inc., a private contractor at PO Box 29960, Bellingham, WA 98226 (herein after referred to as "Contractor").

**PROJECT**  
**2022 Western Avenue Waterline Project**

1. **Scope of Work:** Contractor shall furnish all materials, equipment, and labor to perform the 2022 Western Avenue Waterline Project which includes the installation of approximately 450 LF of 8-inch ductile iron watermain and a City provided fire hydrant, as directed by the Project Manager and as detailed in Exhibit A, which is hereby incorporated by reference and made a part hereof. Work is subject to the 2018 City of Anacortes Engineering Standards, which is hereby incorporated by reference and made a part hereof.
2. **Contract Price:** The Contractor will perform the scope of work above for a firm fixed price of **Sixty-Nine Thousand Seven Hundred Ninety-Five Dollars and Eighty-Five Cents (\$69,795.85)**, which includes \$5,645.25 in 8.8% sales tax. The price per line item is detail in Exhibit A. This includes all labor, materials, and standard freight for the project. Before any payment is made by the City of Anacortes of sums under this contract, the contractor must provide a copy of the statement of *Intent to Pay Prevailing Wage* approved by the Department of Labor and Industries. Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the contractor will be retained.
3. **Bonds:** Pursuant to RCW 39.08.010, the Contractor shall provide the City a performance bond and payment bond for the full contract amount to be in effect as detailed in the incorporated General Provisions. The City may at its option release the bonds once all the conditions of RCW 39.08.010-1a have been discharged.
4. **Time of Completion:** The Contractor shall complete the work by July 31, 2022 as scheduled and directed by the Project Manager.
5. **Project Management.** Coordination and scheduling of the work, materials, and equipment shall be made with the Project Manager Jeff Beltramini, (360) 293-1936.
6. **Contract Requirements:** Contractor must have a contractor license number, insurance, and City of Anacortes business license. **Prevailing Wage Law Applies.** Forms Needed: 1) Proof of Insurance with Additional Insured Endorsement (see General Provisions); 2) Intent to Pay Prevailing Wage; 3) Affidavit of Wages Paid; 4) Performance Bond; 5) Payment Bond; 6) Certification of Compliance with Wage Payment Statutes.
7. **Contract Documents:** The attached General Provisions, Exhibit A, and the 2018 City of Anacortes Engineering Standards are included in this Contract Agreement.

**The parties acknowledge** that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that they are signing with full and complete authority to bind the party on whose behalf of whom they are signing, to each and every term of this Agreement.

**Owner:**

City of Anacortes

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

**Contractor:**

Larry Brown Construction, Inc.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contractor License #

**CONTRACT 22-163-WTR-001**

**EXHIBIT A**

**LARRY BROWN CONSTRUCTION, INC.**

General Contractor

PO Box 29960

Bellingham, WA 98228

Phone (360) 966-7206 Fax (360) 966-7203

Contractor Lic. No. LARRYBC099BP

***PROPOSAL***

The following is our proposal for the waterline on Western Street:

| Bid Item              | Qty | Unit | Unit Price | Total     |
|-----------------------|-----|------|------------|-----------|
| Mobilization          | 1   | Is   | 6,670.0    | 6,670.00  |
| EC                    | 1   | Is   | 1,165.00   | 1,165.00  |
| 8" Pipe               | 468 | If   | 90.45      | 42,330.60 |
| Tie-in @ East Western | 1   | Is   | 2,670.00   | 2,670.00  |
| Tee/ GV/ Blind Flange | 1   | Is   | 4,630.00   | 4,630.00  |
| Hyd Tee/ GV/ Blind FI | 1   | Is   | 5,450.00   | 5,450.00  |
| Install Hydrant       | 1   | Is   | 1,235.00   | 1,235.00  |

Subtotal \$ 64,150.60

WSST 8.8% \$ 5,645.25

Total \$ 69,795.85

**Exclusions:**

Survey by others

No Concrete or Asphalt placement

LARRY BROWN CONSTRUCTION, INC.

Chris Brown

DATE:

6/2/22

**1. WASHINGTON STATE PREVAILING WAGES:** Washington State Prevailing Wages apply to all Work. The Contractor and any of its Subcontractors are required to pay their laborers and mechanics minimum wage in compliance with Washington State Prevailing Wage Laws. Before any payment is made by the City of Anacortes of any sums under this contract, the contractor and each subcontractor must provide the City with a copy of the statement of *Intent to Pay Prevailing Wages* approved by the Washington State Department of Labor and Industries (L&I) (*ONE (1) filed per contractor and each subcontractor per contract*). Following contract completion, the City will not release any funds retained, according to the provisions of RCW 60.28.010, until the contractor and each subcontractor has provided the City a copy of the *Affidavit of Wages Paid* approved by L&I (*ONE (1) filed per contractor and each subcontractor per contract*). L&I provides the wage forms. ***All costs associated with such fees shall be included in the Contract price as part of the fixed costs of overhead for this Contract, including any anticipated subcontractor filing fees. Any change in the fee by L&I will not be grounds for revision in the Contract Amount. The City will only pay for the actual cost charged by L&I for the filing of the intent and affidavit.***

For contracts in excess of \$10,000, the contractor must post in a conspicuous place at the job site, a copy of the statement of *Intent to Pay Prevailing Wages* approved by L&I and the address and phone number of the Industrial Statistician where complaints or inquiries may be made. The City will refer any dispute regarding the prevailing rate of wage to L&I for arbitration.

The State of Washington prevailing wage rates applicable for this public works project, which is located in Skagit County, may be found at the following website address of the Department of Labor and Industries: <https://secure.lni.wa.gov/wagelookup/>. The prevailing wage schedule in effect for the work under the contract will be the one in effect upon the date of execution of the contract. A copy of the applicable prevailing wage rates are also available for viewing at the office of the Owner, located at 904 6<sup>th</sup> Street, Anacortes, WA. Upon request, the Owner will mail a hard copy of the applicable prevailing wages for this project.

At least once a month Contractor must file weekly certified payroll reports online with the Washington Department of Labor and Industries as required by RCW 39.12.120.

**2. Performance and Payment Bonds.** The City is required by RCW 39.08.010, with limited exceptions, to obtain both a Performance and a Payment bond for each public works project. The City requires separate Performance and Payment bonds for 100% of the contract amount furnished on bond forms standardized by the City Attorney's office. The bonds must meet the following provisions:

- Be for the full amount of the project, including tax.
- Name City of Anacortes as the obligee.
- List the correct Project Name and Project Number.
- Be signed by both the surety (the Attorney in Fact) and the Contractor.
- Be issued by a surety authorized to do business in the State of Washington (listed on the Insurance Commissioners website) and which meets the AM Best Rating required in the Contract Documents. If no requirement exists, a minimum of AM Best Rating A-7 or better will be required.

#### *Release of Bonds*

Bonds will not be released until the project has been completed and finally accepted.

**Performance Bonds** – Performance Bonds will be released at the end of the warranty period or twelve months after the date of final acceptance, whichever is later. The City may at its option release the bond once all the conditions of RCW 39.08.010-1a have been discharged.

**Payment Bonds** – Payment Bonds will be released either 45 days after final acceptance of the project or upon receipt of releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries, whichever is later. Release is contingent on the fact that no claims against the bond have been filed prior to the 45 day mark. If claims have been filed against the bond, it will not be released until the claims have been resolved.

**Exceptions** – On projects \$150,000 and under, the Contractor can, in lieu of providing a performance and payment bond, request to have the City withhold 10% of monies earned on the project for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later. This exception is dependent on pre-approval by the City Attorney, and the City reserves the right to reject requests to waive the bond requirements.

**3. Retainage.** Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the Contractor will be retained. The Contractor may elect to execute a Retainage Bond. The bond must be furnished on a bond form standardized by the City Attorney's office and issued by a surety currently authorized by the State Insurance Commissioner to do business in Washington State. Retainage will be released **45 days after final acceptance**, provided that the following has occurred:

1. All liens placed against the project have been released. For projects over \$35,000, releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries will also be required.

2. Affidavits of Wages paid for the final correct contract amount are approved and on file for the Contractor and any subcontractors.
3. Worker's Compensation Premiums for the Contractor and any subcontractors are current.

Note: If the City has approved the Contractor's request to waive the bond requirements, the City will withhold a total of 10% of the monies earned for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Securities Department, and the Washington Department of Labor and Industries, and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

**4. Subcontracts.** The Contractor shall not subcontract the Scope of Work ("Work") unless the Project Manager approves in writing. If the Project Manager requests, the Contractor shall provide proof that the Subcontractor has the experience, ability, and equipment the Work requires. "Subcontractor" means an individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Contractor. Each request to subcontract shall include the following information (i) a description of the supplies or services to be subcontracted, (ii) identification of the type of subcontract to be used (iii) identification of the proposed subcontractor, (iv) proposed subcontract price, (v) identification of the percentage of work to be performed by subcontract. Approval of subcontract shall not:

- a. Relieve the Contractor of any responsibility to carry out the Contract,
- b. Relieve the Contractor of any obligations or liability under the Contract and the Contractor's bond,
- c. Create any contract between the City and the Subcontractor, or
- d. Convey to the Subcontractor any rights against the City.

As required by RCW 39.06.020, the Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification is to include that, at the time of subcontract execution, each subcontractor meets the responsibility criteria listed in RCW 39.04.350(1) and additionally - if applicable - possesses an electrical contractor license or an elevator contractor license. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier. The Contractor shall give immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the City.

If dissatisfied with any part of the subcontracted Work, the Project Manager may request in writing that the Subcontractor be removed. The Contractor shall comply with this request at once and shall not employ the Subcontractor for any further Work under the Contract.

**5. Job Safety & COVID-19 Safety Requirements Compliance.** The Contractor, and its subcontractors of any tier, shall comply with all Washington Dept. of Labor & Industries safety standards, as well as comply with all current and future COVID-19 proclamations, regulations, requirements and/or related guidance issued by the Office of the Governor of Washington State and Office of the Mayor of the City of Anacortes as it may relate to City of Anacortes projects.

**6. Taxes.** The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the City does not hold title. The City is exempt from Federal Excise Tax. Where applicable the City shall furnish a Federal Excise Tax Exemption certificate.

**7. Invoicing.** All invoices shall at a minimum include: Company Name, Invoice Date, Due Date (30 days), Invoice Number, **Agreement Number**, and Price. The Contractor must allow 30 calendar days from receipt of the invoice for payment. ***If requested by the City the Contractor shall provide a cost breakdown of charges.*** Invoices may be sent by US mail to City of Anacortes, Accounts Payable, PO Box 547, Anacortes, WA 98221, or by email to [accountspayable@cityofanacortes.org](mailto:accountspayable@cityofanacortes.org). Contractors may complete a City furnished ACH/EFT form to receive electronic payments directly to their financial institution. The City shall notify the Contractor within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Contractor shall then resubmit a new invoice less the disputed amount and payment shall be made within 30 calendar days. Any disputed amounts may be submitted under the Disputes clause contained herein.

**8. Withholding Payment.** In the event the City determines that the Contractor has failed to perform any obligation under this Contract within the times set forth in this Contract, then the City may withhold from amounts otherwise due and payable to Contractor the amount determined by the City as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to terminate or damages, provided that the City promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 8 days after it determines to withhold amounts otherwise due. A determination of the City Attorney set forth in such notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Contract. The City may act in accordance with any determination of the City Attorney which has become conclusive under this clause, without prejudice to any other remedy under the Contract, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any

amount so paid or incurred from amounts due to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the City under this clause.

**9. Final Payment: Waiver of Claim.** The contractor's acceptance of final payment (excluding withheld retainage) shall constitute a waiver of claims, except those previously and properly made and identified by the contractor as unsettled at the time request for final payment is made.

**10. Inspection.**

**A. Of the Work**

All materials furnished and work done shall be subject to inspection. The City Project Manager administering the Contract shall at all times have access to the work wherever it is in progress or being performed, and the Contractor shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Contractor of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of the Contract. All material or work approved and later found to be defective shall be replaced without cost to the City.

**B. Project Manager's Authority**

The Project Manager shall have power to reject materials or workmanship which do not fulfill the requirements of these Specifications, but in case of dispute the Contractor may appeal to the City Attorney whose decision shall be final. The Contract shall be carried out under the general control of the representative of the City administering the Contract, who may exercise such control over the conduct of the work as may be necessary, in his or her opinion, to safeguard the interest of the City. The Contractor shall comply with any and all orders and instructions given by the representative of the particular Department administering the Contract in accordance with the terms of the Contract. Nothing herein contained, however, shall be taken to relieve the Contractor of his/her obligations or responsibilities under the Contract.

**11. New and Unused.** All units, equipment, parts and material shall be new, unused, manufacturer's current model year and in current production and shall meet any current applicable regulations and/or codes. All materials shall have physical and chemical properties to withstand the intended purpose. Equipment design shall have sufficient excess capacity for durability and safety.

**12. Warranty.** The Contractor shall return to the project and repair or replace all defects in workmanship and material discovered within one year after Final Acceptance of the Work, including any necessary labor and materials. The Contractor shall start work to remedy any such defects within 7 calendar days of receiving City's written notice of a defect, and shall complete such work within the time stated in the City's notice. In case of an emergency, where damage may result from delay or where loss of services may result, such corrections may be made by the City's own forces or another contractor, in which case the cost of corrections shall be paid by the Contractor. In the event the Contractor does not accomplish corrections within the time specified, the work will be otherwise accomplished and the cost of same shall be paid by the Contractor. For one year after acceptance of any corrections by the City the Contractor shall be responsible for correcting all defects in workmanship and materials in the corrected work. In addition, the Contractor shall obtain and submit to the City any necessary documentation to secure any extended manufacturer's warranty and warranty terms. This guarantee is supplemental to and does not limit or affect the requirements that the Contractor's work comply with the requirements of the Contract or impact any other legal rights or remedies of the City.

**13. Indemnification / Hold Harmless.** The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**14. Insurance.**

**A. Insurance Term:** The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

**B. No Limitation:** The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**C. Minimum Scope of Insurance:** The Contractor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. **The City of Anacortes and its officers, elected officials, employees, agents, and volunteers shall be named as an additional insured** under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
  3. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- D. Minimum Amounts of Insurance:** The Contractor shall maintain the following insurance limits:
1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
  2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.
- E. City Full Availability of Contractor Limits:** If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.
- F. Other Insurance Provision:** The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
- G. Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- H. Verification of Coverage:** The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor **within 10 days of contract execution and before scheduling of the work**. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.
- I. Subcontractors' Insurance:** The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.
- J. Notice of Cancellation:** The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two (2) business days of their receipt of such notice.
- K. Failure to Maintain Insurance:** Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.
- 15. Acceptance.** Contractor acknowledges and agrees that these General Provisions are incorporated in, and are a part of, each purchase order or other agreement relating to the provision of goods and/or related services by Contractor. These General Provisions supersede all conflicting or additional terms pre-printed on any purchase order, quote, invoice, or otherwise set forth on any release, acknowledgement, confirmation, requisition, work order, shipping instruction, specification and similar document or communication.
- 16. Registered or Licensed Contractor.** The City is prohibited by RCW 39.06.010 from executing an Agreement with a Contractor who is not registered or licensed as required by the laws of the state. In addition, Anacortes Municipal Code requires that every person engaging in business within the city limits of Anacortes register their business with the state and include a City of Anacortes Endorsement. Businesses from outside city limits with a gross annual income of \$2,000 in Anacortes are also required to obtain a city endorsement. Business licenses and city endorsements can be obtained through the State of Washington Department of Revenue (DOR) Business Licensing Service (BLS) at [bls.dor.wa.gov](https://bls.dor.wa.gov).

**17. Standard Title VI / Non-Discrimination Assurances.** During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees to the clauses in "Appendix A" and "Appendix E" of the Standard Title VI Assurances (USDOT1050.2A), which are hereby incorporated by reference and made a part hereof.

**18. Contractor is an Independent Contractor.** The parties intend that an independent Contractor relationship will be created by this Agreement. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and Subcontractors during the performance of this Agreement.

**19. No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third-Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby, except as otherwise expressly provided for in this Agreement.

**20. The City's Right to Terminate Agreement.**

**A. Termination for Default:** If the Contractor defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the City may, by depositing written notice to the Contractor in the U.S. mail, postage prepaid, terminate the Agreement, and at the City's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Contractor shall not be entitled to receive any further payments under the Agreement until the Scope of Services under this Agreement has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

**B. Termination for Public Convenience:** The City may terminate the Agreement in whole or in part whenever the City determines, in its sole discretion that such termination is in the best interests of the City. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work through the date of termination. If the City exercises its option under this Paragraph, the City shall not be responsible for payment for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

**21. Changes/Additional Work.** The City may engage Contractor to perform services in addition to those listed in this Agreement, and Contractor will be entitled to additional compensation for authorized additional services or materials. The City shall not be liable for additional compensation until and unless any and all additional work and compensation is approved in advance in writing and signed by both parties to this Agreement. If conditions are encountered which are not anticipated in the Scope of Services, the City understands that a revision to the Scope of Services and fees may be required. Provided, however, that nothing in this paragraph shall be interpreted to obligate the Contractor to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this Agreement is approved in writing by both parties.

**22. Non-waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.

**23. Covenant Against Contingent Fees.** The Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**24. Disputes**

**A. General:** Differences between the Contractor and the City, arising under and by virtue of this Agreement shall be brought to the attention of the City at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The provisions of this Clause shall survive the expiration or termination of this Agreement.

**B. Notice of Potential Claims:** The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the City, or (2) the happening of any event or occurrence, unless the Contractor has given the City a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the City. The written Notice of Potential Claim

shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the Work performed, labor and all costs and additional time claimed to be additional.

**C. Detailed Claim:** The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the City, the Contractor has given the City a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

**D. Dispute Resolution:** In the event of a dispute between the City and the Contractor arising out of this Agreement, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Contractor to have oversight over the administration of this Agreement. Said representatives shall meet within thirty (30) calendar days of receipt of detailed claim, and the parties shall make a good faith effort to achieve a resolution of the dispute. In the event the parties are unable to resolve the dispute under the procedure set forth above, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. Any expenses incidental to mediation shall be borne equally by the parties. If either party is dissatisfied with the outcome of the mediation, that party may then pursue any available judicial remedies.

**25. Force Majeure.** Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of Force Majeure. For the purposes of this Agreement, Force Majeure means an occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force Majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; freight embargoes; epidemics; pandemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall give the other party prompt written notice of the impediment and its effect on the ability to perform, with such notice to be provided no more than two (2) working days after the force majeure event or reasonable discovery of the event's impact on performance. Failure to provide such notice shall preclude recovery under this provision. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. Rights Reserved: The City reserves the right to cancel the Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the City.

**26. Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Washington. Any action brought under the Agreement or relating to the Project shall be brought in the Superior Court of the State of Washington in Skagit County Washington.

**27. Compliance with Laws.** The Contractor in the performance of this Agreement shall comply with all applicable Federal, State or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services. Contractor will follow all applicable laws and requirements for excavation and disposal of material.

**28. Severability.** If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

**29. Survival of Contract Termination.** The provisions of the following paragraphs, the provisions of the non collusion affidavit, and the liability of the Contractor for default during the term of the Contract shall survive, notwithstanding the termination or invalidity of this Contract for any reason: Taxes; Warranty; The City's Right to Terminate Contract; Governing Law; Indemnification / Hold Harmless; Disputes.

**30. Notices.** Receipt of any notice shall be deemed effective three days after deposit of written notice in the U.S. mail, with proper postage and properly addressed. Notices shall be sent to the following addresses:

## CITY:

City of Anacortes  
Tiffany Matson  
904 6th Street  
PO Box 547  
Anacortes, WA 98221

## CONTRACTOR:

Larry Brown Construction, Inc.  
Chris Brown  
PO Box 29960  
Bellingham, WA 98228

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Washington State Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Washington State Department of Transportation to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Washington State Department of Transportation, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Washington State Department of Transportation may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment,

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Washington State Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



## City Council Agenda Bill

**Meeting Date:** June 13, 2022

**Agenda Item:** 5.f.

**Agenda Item Title:** Contract Award: AFD Station 3 Lease 2022-2024 #22-165-AFD-001

**Staff Contact(s):** Bill Harris

| <b><u>Approved for Submittal to Council by</u></b> | <b><u>Action Type</u></b> |
|----------------------------------------------------|---------------------------|
| TIFFANY MATSON                                     | Contract Award            |

**Item Summary:** City staff seeks City Council consent to award a contract in the amount of \$65,400.00 to William Chowanec for the lease of Fire Station #3 at 9029 Molly Lane Suite A. Anacortes, WA 98221 from 8/1/2022-7/31/2024.

**Background:**

1. **History:** We are currently utilizing the facility at 9029 Molly Lane Suite A as our Station 3 which serves the March's Point area. The current lease expires on 7-31-22 and this new lease will simply allow us to continue to utilize the space until July 2024. The lease is identical to the current one with the exception that the monthly rate will increase from the current \$2400 monthly to \$2620 for the first year and \$2830 for the second year.
2. **Key Terms:**
  - Contract is for a total price of \$65,400.00. For the term of 8/1/22-7/31/23 the total equals \$31,440.00. For the term of 8/1/23-7/31/24 the total equals \$33,960.00.

**Budget Impact:**

|                            |                   |
|----------------------------|-------------------|
| Contractor                 | William Chowanec  |
| Contract Amount            | \$65,400.00       |
| BARS #                     | 001.320.522.50.45 |
| Budget Amendment Required? | No                |
| Start Date                 | 8/1/2022          |
| End Date                   | 7/31/2024         |

**Previous Action:** N/A

**Recommended Motion:** I move that City Council authorize the Mayor to sign contract 22-165-AFD-001 with William Chowanec in the amount of \$65,400.00 for the AFD Station 3 Lease from 2022-2024.

**Alternative Actions:** Not approve the agreement.

**Attachments (listed in order presented):**

1. 22-165-AFD-001

## COMMERCIAL LEASE AGREEMENT

THIS LEASE (this "Lease") dated \_\_\_\_\_

BETWEEN:

**William Chowanec of 240 Hansen Lane, Gardnerville, NV 89460**

Telephone: (775)430-1010 email: bill@chowanec.org  
(the "Landlord")

OF THE FIRST PART

- AND -

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

Telephone: (360)661-3409 Fax: (360)299-1965  
(the "Tenant")

OF THE SECOND PART

**IN CONSIDERATION OF** the Landlord leasing certain premises to the Tenant, the Tenant leasing those premises from the Landlord and the mutual benefits and obligations set forth in this Lease, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties to this Lease (the "Parties") agree as follows:

### 1. Definitions

When used in this Lease, the following expressions will have the meanings indicated:

- a. "Additional Rent" means all amounts payable by the Tenant under this Lease except Base Rent, whether or not specifically designated as Additional Rent elsewhere in this Lease;
- b. "Building" means all buildings, improvements, equipment, fixtures, property and facilities from time to time located at 9029 Molly Lane, Suite A, Anacortes, WA 98221, as from time to time altered, expanded or reduced by the Landlord in its sole discretion;
- c. "Common Areas and Facilities" mean:
  - i. those portions of the Building areas, buildings, improvements, facilities, utilities, equipment and installations in or forming part of the Building which from time to time are not designated or intended by the Landlord to be leased to tenants of the Building including, without limitation, exterior weather walls, roofs, entrances and exits, parking areas, driveways, loading docks and area, storage, mechanical and electrical rooms, areas above and below leasable premises and not included within leasable premises, security and alarm equipment, grassed and landscaped areas,

retaining walls and maintenance, cleaning and operating equipment serving the Building; and

- ii. those lands, areas, buildings, improvements, facilities, utilities, equipment and installations which serve or are for the useful benefit of the Building, the tenants of the Building or the Landlord and those having business with them, whether or not located within, adjacent to or near the Building and which are designated from time to time by the Landlord as part of the Common Areas and Facilities;
- d. "Leasable Area" means with respect to any rentable premises, the area expressed in square feet of all floor space including floor space of mezzanines, if any, determined, calculated and certified by the Landlord and measured from the exterior face of all exterior walls, doors and windows, including walls, doors and windows separating the rentable premises from enclosed Common Areas and Facilities, if any, and from the center line of all interior walls separating the rentable premises from adjoining rentable premises. There will be no deduction or exclusion for any space occupied by or used for columns, ducts or other structural elements;
- e. "Premises" means the commercial premises at **9029 Molly Lane, Suite A, Anacortes, WA 98221.**

## 2. **Intent of Lease**

It is the intent of this Lease and agreed to by the Parties to this Lease that rent for this Lease will be on a gross rent basis meaning the Tenant will pay the Base Rent and any Additional Rent and the Landlord will be responsible for all other service charges related to the Premises and the operation of the Building save as specifically provided in this Lease to the contrary.

## 3. **Leased Premises**

The Landlord agrees to rent to the Tenant the commercial premises municipally described as 9029 Molly Lane, Suite A, Anacortes, WA 98221, (the "Premises"). The Premises will be used for only the following permitted use (the "Permitted Use"): Fire/EMT Station.

Neither the Premises nor any part of the Premises will be used at any time during the term of this Lease by Tenant for any purpose other than the Permitted Use.

Subject to the provisions of this Lease, the Tenant is entitled to the use of parking (the 'Parking') on or about the Premises. Only properly insured motor vehicles may be parked in the Tenant's space.

## 4. **Term**

The term of the Lease is for 2 years to commence at 12:00 noon on August 1, 2022.

Upon 3 days notice, the Landlord may terminate the tenancy under this Lease if the Tenant has defaulted in the payment of any portion of the Rent when due.

Upon 10 days notice, the Landlord may terminate the tenancy under this Lease if the Tenant fails to observe, perform and keep each and every of the covenants, agreements, stipulations, obligations, conditions and other provisions of this Lease to be observed, performed and kept by the Tenant and the Tenant persists in such default beyond the said 10 days notice.

Notwithstanding that the term of this Lease commences on August 1, 2022, the Tenant is entitled to possession of the Premises on or before termination of the existing lease.

Should the Tenant remain in possession of the Premises with the consent of the Landlord after the natural expiration of this Lease, a new tenancy from month to month will be created between the Landlord and the Tenant which will be subject to all the terms and conditions of this Lease but will be terminable upon either party giving one month's notice to the other party.

## 5. **Rent**

Subject to the provisions of this Lease, the Tenant will pay a base rent of **\$2,620.00** payable per month, for the Premises, which includes a monthly charge of **\$ 0** for the Parking (collectively the "Base Rent").

The Tenant will pay the Base Rent on or before the First of each and every month of the term of this Lease to the Landlord at 14752 Rosario Rd, Anacortes, WA 98221, or at such other place as the Landlord may later designate.

The Base Rent for the Premises will increase over the Term of the Lease as follows:  
**Second year of lease to be at rate of \$2,830.00 per month.**

For any rent review negotiation, the basic rent will be calculated as being the higher of the Base Rent payable immediately before the date of review and the Open Market Rent on the date of review.

## 6. **Use and Occupation**

The Tenant will use and occupy the Premises only for the Permitted Use and for no other purpose whatsoever. The Tenant will carry on business under the name of **City of Anacortes** and will not change such name without the prior written consent of the Landlord, such consent not to be unreasonably withheld. The Tenant will open the whole of the Premises for business to the public fully fixtured, stocked and staffed on the date of commencement of the term and throughout the term, will continuously occupy and utilize the entire Premises in the active conduct of its business in a reputable manner.

The Tenant covenants that the Tenant will carry on and conduct its business from time to time carried on upon the Premises in such manner as to comply with all statutes, bylaws, rules and regulations of any federal, provincial, municipal or other competent authority and will not do anything on or in the Premises in contravention of any of them.

7. **Quiet Enjoyment**

The Landlord covenants that on paying the Rent and performing the covenants contained in this Lease, the Tenant will peacefully and quietly have, hold, and enjoy the Premises for the agreed term.

8. **Overholding**

If the Tenant continues to occupy the Premises without the written consent of the Landlord after the expiration or other termination of the term, then, without any further written agreement, the Tenant will be a month-to-month tenant at a minimum monthly rental equal to twice the Base Rent and subject always to all of the other provisions of this Lease insofar as the same are applicable to a month-to-month tenancy and a tenancy from year to year will not be created by implication of law.

If the Tenant continues to occupy the Premises without the written consent of the Landlord at the expiration or other termination of the term, then the Tenant will be a tenant at will and will pay to the Landlord, as liquidated damages and not as rent, an amount equal to twice the Base Rent plus any Additional Rent during the period of such occupancy, accruing from day to day and adjusted pro rata accordingly, and subject always to all the other provisions of this Lease insofar as they are applicable to a tenancy at will and a tenancy from month to month or from year to year will not be created by implication of law; provided that nothing in this clause contained will preclude the Landlord from taking action for recovery of possession of the Premises.

9. **Additional Rights on Reentry**

If the Landlord reenters the Premises or terminates this Lease, then:

- a. notwithstanding any such termination or the term thereby becoming forfeited and void, the provisions of this Lease relating to the consequences of termination will survive;
- b. the Landlord may expel and remove, forcibly, if necessary, the Tenant, those claiming under the Tenant and their effects, as allowed by law, without being taken or deemed to be guilty of any manner of trespass;
- c. the Landlord may re-let the Premises or any part of the Premises for a term or terms which may be less or greater than the balance of the term of this Lease remaining and may grant reasonable concessions in connection with such re-letting including any alterations and improvements to the Premises;

- d. after reentry, the Landlord may procure the appointment of a receiver to take possession and collect rents and profits of the business of the Tenant, and, if necessary to collect the rents and profits the receiver may carry on the business of the Tenant and take possession of the personal property used in the business of the Tenant, including inventory, trade fixtures, and furnishings, and use them in the business without compensating the Tenant;
- e. after reentry, the Landlord may terminate the Lease on giving 5 days written notice of termination to the Tenant. Without this notice, reentry of the Premises by the Landlord or its agents will not terminate this Lease;
- f. the Tenant will pay to the Landlord on demand:
  - i. all rent, Additional Rent and other amounts payable under this Lease up to the time of reentry or termination, whichever is later;
  - ii. reasonable expenses as the Landlord incurs or has incurred in connection with the reentering, terminating, re-letting, collecting sums due or payable by the Tenant, realizing upon assets seized; including without limitation, brokerage, fees and expenses and legal fees and disbursements and the expenses of keeping the Premises in good order, repairing the same and preparing them for re-letting; and
  - iii. as liquidated damages for the loss of rent and other income of the Landlord expected to be derived from this Lease during the period which would have constituted the unexpired portion of the term had it not been terminated, at the option of the Landlord, either:
    - i. an amount determined by reducing to present worth at an assumed interest rate of twelve percent (12%) per annum all Base Rent and estimated Additional Rent to become payable during the period which would have constituted the unexpired portion of the term, such determination to be made by the Landlord, who may make reasonable estimates of when any such other amounts would have become payable and may make such other assumptions of the facts as may be reasonable in the circumstances; or
    - ii. an amount equal to the Base Rent and estimated Additional Rent for a period of six (6) months.

#### **10. Tenant Improvements**

The Tenant will obtain written permission from the Landlord before doing any of the following:

- a. applying adhesive materials, or inserting nails or hooks in walls or ceilings other than two small picture hooks per wall;
- b. painting, wallpapering, redecorating or in any way significantly altering the appearance of the Premises;
- c. removing or adding walls, or performing any structural alterations;
- d. installing a waterbed(s);
- e. changing the amount of heat or power normally used on the Premises as well as installing additional electrical wiring or heating units;
- f. placing or exposing or allowing to be placed or exposed anywhere inside or outside the Premises any placard, notice or sign for advertising or any other purpose; or
- g. affixing to or erecting upon or near the Premises any radio or TV antenna or tower.

#### 11. **Utilities and Other Costs**

The Landlord is responsible for the payment of the following utilities and other charges in relation to the Premises: **water and sewer and common electricity.**

The Tenant is responsible for the direct payment of the following utilities and other charges in relation to the Premises: **electricity, natural gas, telephone, Internet and cable.**

#### 12. **Insurance**

The Tenant is hereby advised and understands that the personal property of the Tenant is not insured by the Landlord for either damage or loss, and the Landlord assumes no liability for any such loss. The Tenant is advised that, if insurance coverage is desired by the Tenant, the Tenant should inquire of Tenant's insurance agent regarding a Tenant's Policy of Insurance.

The Tenant is responsible for insuring the Premises.

The Tenant will provide proof of such insurance to the Landlord upon request.

#### 13. **Governing Law**

It is the intention of the Parties to this Lease that the tenancy created by this Lease and the performance under this Lease, and all suits and special proceedings under this Lease, be construed in accordance with and governed, to the exclusion of the law of any other

forum, by the laws of the State of Washington, without regard to the jurisdiction in which any action or special proceeding may be instituted.

**14. Severability**

If there is a conflict between any provision of this Lease and the applicable legislation of the State of Washington (the 'Act'), the Act will prevail and such provisions of the Lease will be amended or deleted as necessary in order to comply with the Act. Further, any provisions that are required by the Act are incorporated into this Lease.

**15. Assignment and Subletting**

The Tenant will not assign this Lease, or sublet or grant any concession or license to use the Premises or any part of the Premises. An assignment, subletting, concession, or license, whether by operation of law or otherwise, will be void and will, at Landlord's option, terminate this Lease.

**16. Care and Use of Premises**

The Tenant will promptly notify the Landlord of any damage, or of any situation that may significantly interfere with the normal use of the Premises.

Parking facilities are provided at the Tenant's own risk. The Tenant is required to park in only the space allotted to them.

The Tenant will not make (or allow to be made) any noise or nuisance which, in the reasonable opinion of the Landlord, disturbs the comfort or convenience of other tenants.

The Tenant will not engage in any illegal trade or activity on or about the Premises.

The Landlord and Tenant will comply with standards of health, sanitation, fire, housing and safety as required by law.

**17. Surrender of Premises**

At the expiration of the lease term, the Tenant will quit and surrender the Premises in as good a state and condition as they were at the commencement of this Lease, reasonable use and wear and damages by the elements excepted.

**18. Hazardous Materials**

The Tenant will not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might unreasonably increase the danger of fire on the Premises or that might be considered hazardous by any responsible insurance company.

**19. Rules and Regulations**

The Tenant will obey all rules and regulations posted by the Landlord regarding the use and care of the Building, parking lot, laundry room and other common facilities that are provided for the use of the Tenant in and around the Building on the Premises.

**20. General Provisions**

Any waiver by the Landlord of any failure by the Tenant to perform or observe the provisions of this Lease will not operate as a waiver of the Landlord's rights under this Lease in respect of any subsequent defaults, breaches or nonperformance and will not defeat or affect in any way the Landlord's rights in respect of any subsequent default or breach.

This Lease will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns, as the case may be, of each party to this Lease. All covenants are to be construed as conditions of this Lease.

All sums payable by the Tenant to the Landlord pursuant to any provision of this Lease will be deemed to be Additional Rent and will be recovered by the Landlord as rental arrears.

Where there is more than one Tenant executing this Lease, all Tenants are jointly and severally liable for each other's acts, omissions and liabilities pursuant to this Lease.

\_\_\_\_\_  
William Chowanec (Landlord)

Date: \_\_\_\_\_

City of Anacortes (Tenant)

\_\_\_\_\_  
Matt Miller (Mayor)

Date: \_\_\_\_\_



## City Council Agenda Bill

**Meeting Date:** June 13, 2022

**Agenda Item:** 6.a.

**Agenda Item Title:** Skate Park Funding Request

**Staff Contact(s):** JONN LUNSFORD

|                                                    |                           |
|----------------------------------------------------|---------------------------|
| <b><u>Approved for Submittal to Council by</u></b> | <b><u>Action Type</u></b> |
| JONN LUNSFORD                                      | Discussion                |

**Item Summary:** Due to generous donations, the community has so far raised \$650,000 to build a new skate park in Anacortes. Our current estimates are that it will require closer to \$850,000 to complete the work. The Parks and Recreation Department is asking City Council to consider designating \$100,000 in Real Estate Excise Tax (REET) funds for this project to move us nearer to our goal. The overall project will include demo-ing the existing skate bowl, rebuilding on a similar footprint with new features, a connection to the Thompson Parkway and relocation of the parking lot. A bicycle pump track is also part of this design but may be included in a later phase depending on the funds raised.

**Budget Impact:**

Approving \$100,000 in REET funding will require a budget amendment as these funds were not included in the 2022 budget.

**Previous Action:** Discussion at the Parks and Recreation City Council sub-committee and Parks and Recreation Advisory Commission.

**Recommended Motion:** Direct staff to include this request for \$100,000 in REET funding for the skate park in the 2nd Quarter Budget Amendment.

**Alternative Actions:** Request more information on alternate funding sources.

**Attachments (listed in order presented):**

1. Skate Park Presentation 06132022

# SKATE PARK FUNDING REQUEST



# Fundraising Goal: \$850,000 to \$900,000

- + Donations to date for the Skate Park: +
  - \$500,000 Anonymous •
  - \$100,000 Kiwanis Club of Anacortes
  - \$50,000 Community Donations
  - \$100,000 REET Request

\$750,000 Total (if REET is approved)



## Recommendation to City Council:

- Instruct staff to add \$100,000 in REET funds for the Skate Park to the 2<sup>nd</sup> Quarter Budget Amendment.

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# THANK YOU



## City Council Agenda Bill

**Meeting Date:** June 13, 2022

**Agenda Item:** 6.b.

**Agenda Item Title:** Ordinance 4021: Amending Title 6 AMC regarding Animals

**Staff Contact(s):** DARCY SWETNAM, DAVE FLOYD

**Approved for Submittal to Council by**   **Action Type**

DARCY SWETNAM

Ordinance

STEVE HOGLUND

**Item Summary:** Ordinance 4021 updates the chapter of the Anacortes Municipal Code regarding dangerous dogs, which has not been updated since 2015. The ordinance tries to address issues identified by the Anacortes Police Department with enforceability, clarity, and consistency with other jurisdictions.

**Budget Impact:**

N/A

**Previous Action:** The draft ordinance was introduced to Council on [April 18, 2022](#), with a second read on [June 6, 2022](#).

**Recommended Motion:** I move to adopt Ordinance 4021, an ordinance amending chapter 6.08 of the Anacortes Municipal Code regarding dangerous dogs.

**Alternative Actions:** Propose further amendments.

**Attachments (listed in order presented):**

1. Ordinance 4021 updating Chapter 6.08 AMC
2. Exhibit A - Track Changes Chapter 6.08
3. Exhibit A - Clean Chapter 6.08

**City of Anacortes  
Ordinance No. 4021**

**An Ordinance of the City of Anacortes, Washington, amending Chapter 6.08 of  
the Anacortes Municipal Code regarding Dangerous Dogs**

**Whereas** the Anacortes Municipal Code regulates Dangerous Dogs at Chapter 6.08;  
and

**Whereas** Chapter 6.08 AMC has not been updated since 2015; and

**Whereas** the City's Animal Control Officer has noted several areas of Chapter 6.08 AMC  
which need to be updated to clarify enforcement standards or become consistent with  
practices in neighboring jurisdictions; and

**Whereas** the City desires update Chapter 6.08 AMC to provide the best protection for  
residents, property owners, visitors, and animals in the City of Anacortes.

**Now, therefore, the City Council of the City of Anacortes does ordain as follows:**

Section 1. Chapter 6.08 of the Anacortes Municipal Code entitled "Dangerous Dogs" is  
revised to read as shown in Attachment A, which is hereby adopted and  
incorporated herein by reference; and

Section 2. This ordinance shall take effect five (5) days from and after its passage,  
approval and publication in the manner required by law.

**PASSED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2022.**

**CITY OF ANACORTES:**

\_\_\_\_\_  
Matt Miller, Mayor

**Attest:**

\_\_\_\_\_  
Steve Hoglund, City Clerk-Treasurer

**Approved as to Form:**

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Darcy Swetnam, City Attorney

## Chapter 6.08 DANGEROUS DOGS

### Sections:

- 6.08.010 Purpose.
- 6.08.015 Definitions.
- 6.08.020 Adoption by reference.
- 6.08.030 Potentially dangerous dogs—Registration and compliance with chapter required.
- 6.08.040 Potentially dangerous dogs—Certificate of registration—Fee—Requirements.
- 6.08.050 Potentially dangerous dogs—Enclosure or secure restraint required.
- 6.08.060 Dangerous dogs—Registration certificate—Fee.
- 6.08.070 Dangerous dogs—Sterilization required—Further acquisition prohibited.
- 6.08.080 Potentially dangerous dogs and dangerous dogs—Impoundment.
- 6.08.090 Microchipping of dangerous and potentially dangerous dogs required.
- 6.08.100 Declaration as dangerous or potentially dangerous dog—Notice to owner—Appeal.
- 6.08.110 Basis for determination.
- 6.08.120 Notification of status change of dangerous and potentially dangerous dogs.
- 6.08.130 Violation—Non-declaration no defense.
- 6.08.140 Confiscation of dangerous dogs.
- 6.08.150 Euthanasia required—Notice to owner—Appeal.
- 6.08.160 Disclaimer of liability.
- 6.08.170 Violation—Penalty.
- 6.08.180 Severability.

### 6.08.010 Purpose.

It is the purpose of this chapter to provide a means of controlling errant animal behavior so that it shall not become a public nuisance. This chapter shall be construed so as to be consistent with Chapter [16.08](#) RCW. In the event of a conflict between this chapter and any provision of Chapter [16.08](#) RCW, then in that event the applicable provision of Chapter [16.08](#) RCW shall prevail. (Ord. 2955 Att. A, 2015)

### 6.08.015 Definitions.

A. “Potentially dangerous dog” means any dog that when unprovoked: (a) ~~inflicts one or more bites on~~ abites a human or a domestic animal either on public or private property, or (b) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, ~~or~~ (c) any

**Commented [GF1]:** Officer Zabrina Nybo comments: For section A: On a recent case, a defense attorney said that the current language “inflicts bites on a human” suggests that it must be more than one bite or the definition does not apply. Also, I would like to be consistent with other agencies by adding section D under both definitions.

dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals or (d) any dog that has been previously declared a potentially dangerous dog in any other county, state, or foreign country.

B. “Dangerous dog” means any dog that (a) inflicts severe injury on a human being without provocation on public or private property, (b) kills a domestic animal without provocation while the dog is off the owner’s property, or (c) has been previously found to be potentially dangerous because of injury inflicted on a human or domestic animal, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals, or (d) any dog that has been previously declared a potentially dangerous dog in any other county, state, or foreign country.

C. “Severe injury” means any physical injury that results in:

1. One or more broken bones;
2. One or more disfiguring lacerations, avulsions, cuts, or puncture wounds requiring medical attention, including but not limited to one or more sutures, steri-strips, or staples; or
3. Permanent nerve damage;

“Severe injury” also means transmittal of an infectious or contagious disease by an animal.

D. “Proper enclosure of a potentially dangerous ~~or dangerous~~ dog” means, while on the owner’s property, a potentially dangerous ~~or dangerous~~ dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog. If the pen or structure has no bottom secured to the sides, they must be embedded into the ground no less than one foot. kennel, pen, or within a fence which has secure sides of sufficient height and strength to prevent the declared dog’s escape, and the entry of individuals or other domesticated animals. The Animal Control Officer will inspect the kennel, pen or fence to determine if it meets the requirements and may require modifications to be in compliance. Additionally, clearly visible warning signs must be posted on the premises that there is a potentially dangerous dog ~~or dangerous dog~~ on the property. The signs must have a symbol or photograph that informs children of the presence of the dog and must be posted at all entrance or exit points to the premises.

E. “Proper enclosure of a dangerous dog” means, while on the owner’s property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog. If the pen or structure has no bottom secured to the sides, they must be embedded into the ground no less than one foot. Additionally, clearly visible warning signs must be posted on the premises that there is a dangerous dog on the property. The signs must have a symbol or photograph that informs children of the presence of the dog and must be posted at all entrance or exit points to the premises.

**Commented [GF2]:** Officer Zabrina Nybo commented: I would like to be consistent with other agencies throughout the county and change the enclosure requirements for Potentially Dangerous Dogs to include these options.

**FE.** “Animal control authority” means an entity acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county, and state and the shelter and welfare of animals.

**FG.** “Animal control officer” means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

**GH.** “Owner” means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

**HI.** “Physical control device” for the purpose of this chapter, physical control device is defined as a static leash no longer than six feet in length or carrying cage. (Ord. 2955 Att. A, 2015)

**I.** ~~“Provoked” An animal is provoked if it was being tormented or physically abused at the time of the incident; if a reasonable person would conclude that the animal was defending itself, its owner or an immediate family member of its owner; or another person within its immediate vicinity from an actual assault or was defending real property belonging to its owner or an immediate family member of its owner from a crime being committed on the owners property at that time.~~ means the threat, injury, or damage caused by the dog was sustained by a person who:

1. At the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog; or

2. At the time was tormenting, abusing, or assaulting the dog; or

3. Has in the past, has been observed or reported to have tormented, abused, or assaulted the dog; or

4. At the time was committing or attempting to commit a crime.

**Commented [GF3]:** Officer Zabrina Nybo commented: On a recent case held in Anacortes Muni Court, the Commissioner made a point that although the word “provoked” is used, it is not defined. Nor is it defined in RCW. This became a big sticking point on this case and having a definition would help clear things up in the future.

**Commented [DS4]:** This was replaced per Council discussion on 4/18.

## 6.08.020 Adoption by reference.

The following provisions of the Revised Code of Washington as presently constituted or hereafter amended are adopted by reference:

**16.08.080** Dangerous dogs—Notice to owners—Right of appeal—Certificate of registration required—Surety bond—Liability insurance—Restrictions

**16.08.090** Dangerous dogs—Requirements for restraint—Potentially dangerous dogs—Dogs not declared dangerous

[16.08.100\(1\)](#) Relating to dangerous dogs. (Ord. 2955 Att. A, 2015)

**6.08.030 Potentially dangerous dogs—Registration and compliance with chapter required.**

It is unlawful for any owner to have, maintain or bring into the city any dangerous dog or potentially dangerous dog unless the owner has obtained a certificate of registration for the dog from the city and is in compliance with all of the provisions made applicable to the keeping of such dogs by this chapter. This section shall not apply to dogs used by law enforcement agencies for police work or dogs kept by a licensed veterinarian for medical or quarantine purposes. (Ord. 2955 Att. A, 2015)

**6.08.040 Potentially dangerous dogs—Certificate of registration—Fee—Requirements.**

A. Upon application therefor, and upon payment of a registration fee in the amount of two hundred fifty dollars, the animal control officer shall issue a certificate of registration of potentially dangerous dog to the owner of a dog so classified if the owner presents to the city sufficient evidence of:

1. *Enclosure.* A proper enclosure to confine a potentially dangerous dog, as those terms are defined in this chapter; and
2. *Bond or Insurance.*
  - i. A fifty thousand dollar surety bond issued by a surety insurer qualified under Chapter [48.28](#) RCW in a form acceptable to the city, payable to any person injured by the potentially dangerous animal, or
  - ii. A policy of liability insurance, such as homeowner's insurance, or a public liability insurance issued by an insurer qualified under RCW Title [48](#) and acceptable to the city in an amount of not less than fifty thousand dollars with maximum deductible coverage not to exceed two thousand five hundred in a form requiring notice to the city of cancellation or nonrenewal of such policy not less than thirty days prior to its date of cancellation or expiration, insuring the owner for any personal injuries or property damage inflicted by the animal.

B. Such certificate of registration of a potentially dangerous dog shall be valid for a period of one year following initial declaration and inspection, and subsequent annual inspections.

C. The certificate of registration of potentially dangerous dog shall be in addition to the license required by Chapter 6.04 AMC. The annual renewal fee for each potentially dangerous dog registered under this section is fifty dollars. The fee is due by January 1st of each year.

D. The owner of any potentially dangerous dog for which a certificate of registration has been issued by the city or any other city or county authority in the state, or the owner of any unregistered potentially dangerous dog, shall notify the animal control officer of the city in writing whenever such potentially dangerous dog has either been permanently removed from the city, or has become deceased, within 24 hours of either instance. The written notice to the city must provide the name of the person(s) who are responsible for and have custody of the dog, their phone number(s) and address where the dog now resides.~~address where the dog resides and state the person(s) who are responsible for and has custody of the dog.~~ (Ord. 2955 Att. A, 2015)

**E. Exemption to Requirements.** A dog that for the first time is classified as “potentially dangerous” under the provisions of this chapter may be exempted from the certification requirements above, provided the animal has passed the Canine Good Citizen (CGC) test of the American Kennel Club (AKC), as administered by any AKC certified trainer, received appropriate certification from the AKC, and that certification has been provided to the Anacortes Police Department. Such animal shall be retested at least once every two years and must pass each time in order to maintain this exemption. Any failure to provide current certification within the two-year time period or any failure of the animal to pass shall result in the permanent removal of the exemption. An animal shall be allowed one exemption. The exemption shall cease to continue or apply regardless of certification from the AKC or the passing of CGC testing if the animal acts in a manner that gives rise to a second finding that the animal is “potentially dangerous” under the provisions of this chapter. In the event the animal acts in a manner that gives rise to a finding that the animal has aggressively bitten, attacked, or endangered the safety of humans and/or animals and has been previously classified as “potentially dangerous”, the exemption shall cease to continue, and the dog shall be declared as “dangerous.” The exemption shall be noted on the dog license application.

**Commented [GF5]:** Officer Zabrina Nybo commented: I know several agencies that offer this and have had a few people successfully meet the exemption requirements. Rather than offer stipulation and orders, this will give me the authority and responsibility to follow up on these cases directly. I also would like to offer this as an option for those select few that would get their dog trained and be in compliance. I think the Commissioner would like that this option is available as well, rather than a “lifetime sentence” for being declared as Potentially Dangerous. This would never apply to a dog declared as Dangerous.

#### 6.08.050 Potentially dangerous dogs—Enclosure or secure restraint required.

It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside the proper enclosure of the potentially dangerous dog unless such dog is restrained by a substantial physical control device, including a static leash no longer than six feet in length or carrying cage, and under physical restraint of a responsible person. In addition to physical control devices, an animal control officer may require a potentially dangerous dog to be muzzled while outside the proper enclosure. In prescribing the muzzle requirement for a potentially dangerous dog the animal control officer must take into consideration the following factors:

- A. The breed of the animal and its characteristics;
- B. The physical size of the animal;
- C. The number of animals in the owner’s home;

- D. The zoning involved; size of the lot where the animal resides; the number and proximity of neighbors;
- E. The existing control factors, including but not limited to fencing, caging, runs and staking locations;
- F. The nature of the behavior giving rise to the animal control officer determination that the animal is vicious:
  - 1. Extent of injury(ies),
  - 2. Circumstances, e.g., time of day, on/off property, provocation instinct,
  - 3. Circumstances surrounding the result and complaint, e.g., neighborhood disputes, identification, credibility of complainants, and witnesses. (Ord. 2955 Att. A, 2015)

#### 6.08.060 Dangerous dogs—Registration certificate—Fee.

A. Upon application therefor, and upon payment of a registration fee in the amount of two hundred fifty dollars, the city shall issue a certificate of registration of dangerous dog to the owner of such a dog if the owner presents to the city sufficient evidence of:

- 1. *Enclosure.* A proper enclosure to confine a dangerous dog, as that term is defined herein; and
- 2. Bond or insurance.
  - i. A two hundred fifty thousand dollar surety bond issued by a surety insurer qualified under Chapter [48.28](#) RCW in a form acceptable to the city in a sum of at least two hundred fifty thousand dollars payable to any person injured by the potentially dangerous animal; or
  - ii. A policy of liability insurance, such as a homeowner's insurance, or public liability insurance acceptable to the city issued by an insurer qualified under RCW Title [48](#) in the amount of not less than two hundred fifty thousand dollars with maximum deductible coverage not to exceed two thousand five hundred dollars in a form requiring notice to the city of cancellation or nonrenewal of such policy not less than 30 days prior to its date of cancellation or expiration, insuring the owner for any personal injuries or property damage inflicted by the animal.

B. Such certificate of registration of a dangerous dog shall be valid for a period of one year, following initial declaration and inspection, and subsequent annual inspections.

C. The certificate of registration of dangerous dog shall be in addition to the license required by Chapter [6.04](#) AMC. The annual renewal fee for each dangerous dog registered under this section is one hundred dollars. The fee is due by January 1st of each year.

D. Any dog that has been declared to be a dangerous dog pursuant to the provisions of Chapter [16.08](#) RCW by any jurisdiction having authority shall be registered as such as provided herein.

E. The owner of any dangerous dog for which a certificate of registration has been issued by the city or any other city or county authority in the state, or the owner of any unregistered dangerous dog, shall notify the animal control officer of the city in writing whenever such dangerous dog has either been permanently removed from the city, or has become deceased within 24 hours of either instance. The written notice to the city must provide the name of the person(s) who are responsible for and have custody of the dog, their phone number(s) and address where the dog now resides~~address where the dog resides and state the person(s) who are responsible for and has custody of the dog~~. (Ord. 2955 Att. A, 2015)

**Commented [GF6]:** Officer Zabrina Nybo commented: I would like to clean up this language to put an exact time limit for people to notify me, as current language doesn't give a time frame. Also, in order to properly advise the Animal Control Officer in the jurisdiction where the dog will be moving to, I need the new owners name, address and phone number.

#### 6.08.070 Dangerous dogs—Sterilization required—Further acquisition prohibited.

A. Any dog which is declared to be a “dangerous dog” pursuant to this chapter or Chapter [16.08](#) RCW shall be required to be sterilized by a veterinarian of the owner’s choice, at the owner’s expense. If the owner does not have the animal sterilized within thirty days, the city animal control officer may seize the dog and have the animal sterilized at the owner’s expense.

B. Any person owning a dog which is declared to be a “dangerous dog” pursuant to this chapter or Chapter [16.08](#) RCW is prohibited from acquiring or owning any additional dangerous dogs. (Ord. 2955 Att. A, 2015)

#### 6.08.080 Potentially dangerous dogs and dangerous dogs—Impoundment.

Any potentially dangerous dog or dangerous dog may be immediately impounded by an animal control officer if:

- A. The dog is not validly registered under this chapter;
- B. The owner does not secure or maintain either a surety bond or insurance coverage as required by AMC [6.08.040](#) or [6.08.060](#);
- C. The dog is not maintained in the proper enclosure; or
- D. The dog is outside the dwelling of the owner, or outside the proper enclosure and not under proper physical restraint of a responsible person, or muzzled, as required. (Ord. 2955 Att. A, 2015)

#### 6.08.090 Microchipping of dangerous and potentially dangerous dogs required.

A. Any dog which is declared to be a “dangerous dog” or “potentially dangerous” pursuant to this chapter or Chapter [16.08](#) RCW or a similar provision in another jurisdiction shall be required to be microchipped by a

veterinarian of the owner's choice, at the owner's expense and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority. This shall be in addition to the other requirements of this chapter and this procedure must be accomplished within thirty days after the owner's receipt of the dangerous dog or potentially dangerous declaration issued pursuant to this chapter or Chapter [16.08](#) RCW or upon thirty days after moving the potentially dangerous or dangerous animal into the city limits. Documentation of the microchip implant shall be provided to the city, including the microchip identification number, within thirty days after the microchip implantation. If the owner does not have the dog microchipped the city animal control officer may seize the dog and have the animal microchipped at the owner's expense.

B. Removal of a required microchip implanted in a declared "dangerous dog" or "potentially dangerous" dog shall be unlawful excepting the existence of a valid medical reason as determined by a veterinarian of the owner's choice. Removal of a required microchip must be reported to the city within thirty days of the procedure with documentation from the veterinarian performing the procedure of the medical reason for removal. (Ord. 2955 Att. A, 2015)

#### 6.08.100 Declaration as dangerous or potentially dangerous dog—Notice to owner—Appeal.

A. The animal control officer shall have the authority to declare any dog in the city a dangerous dog or potentially dangerous dog, which shall serve as notice to the owner that compliance with all provisions of this chapter and state law is required.

B. A declaration by the animal control officer that a dog is dangerous or potentially dangerous must be in writing and shall be served by the animal control officer or a police officer upon the owner by one of the following methods:

1. Certificated mail, return receipt requested, to the last known address of the owner, or the address shown on any registration obtained pursuant to Chapter [6.04](#) AMC; or

2. Personal service; [or](#).

- [3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.](#)

C. The declaration shall set forth at a minimum:

1. A description of the dog;
2. The name and address of the owner of the animal, if known;
3. The location of the animal if not in the custody of the owner;

4. A brief statement of the facts upon which the declaration is based;

5. The date upon which the declaration was mailed or served;

6. Notice of the right to appeal the declaration to the municipal court by filing a written request therefor with the ~~Anacortes city prosecutor and the~~ municipal court within ~~fourteen calendar~~ five days of the date the declaration was mailed ~~or~~, served, or published;

7. A brief statement of the restrictions and regulations applicable to the keeping of the dog by reason of its status as dangerous or potentially dangerous or inclusion of a copy of the specific ordinance(s) that have been alleged to have been violated.

D. Any owner who has been notified of a declaration of dangerous dog or potentially dangerous dog may appeal such declaration to the municipal court by filing a written request therefor with the city municipal court and the city prosecutor within five days of the date of mailing or service of the declaration.

E. Upon receiving a request to appeal a declaration of dangerous dog or potentially dangerous dog, the municipal court shall schedule a hearing which shall be held not later than thirty days from the date of the request, unless extended by the court for good cause.

F. At a hearing under this section, the city shall have the burden of proof, by a preponderance of the evidence, to demonstrate that the dog is dangerous or potentially dangerous.

G. Following a hearing under this section, the judge may sustain or overrule the determination of the animal control officer by written order.

H. Where an owner has requested a hearing pursuant to this chapter of this section, no potentially dangerous dog or dangerous dog which is in the possession of the animal control officer shall be destroyed until the resolution of such hearing; provided, however, that an additional civil penalty in the amount of ~~fifteen~~ ten dollars per day shall be assessed against any owner whose dog remains in the custody of the animal control officer during any hearings requested under this chapter which result in any penalty against such owner. In addition to any civil penalty, the owner shall be responsible for all expenses incurred for the dog, including but not limited to the costs of boarding, medical treatment, euthanasia, and carcass disposal.

I. Following any resolution of any contested hearing on any civil penalty under this chapter, the owner of any dangerous dog or potentially dangerous dog in the possession of the animal control officer shall pay all civil penalties assessed under this chapter within ten days of the final resolution of any hearing on said penalties.

J. Any dangerous dog or potentially dangerous dog which has not been picked up from the animal control officer by its owner within ten days of the final resolution of any hearing on civil penalties under this chapter shall be destroyed in an expeditious and humane manner. (Ord. 2955 Att. A, 2015)

**Commented [GF7]:** Officer Zabrina Nybo commented: In order to be with the majority, I would like to give people 14 days to appeal, rather than 5. Also, there have been instances where I have no physical or mailing address for the dog owner and would like the 3rd option.

**Commented [GF8]:** Officer Zabrina Nybo commented: The daily boarding rate is currently \$15.00/day, and I would like this be reflected in the code

#### 6.08.110 Basis for determination.

A dog shall not be considered or declared potentially dangerous or dangerous solely on the basis of inflicting [one or more](#) bites on a person or by chasing or approaching in a menacing fashion or apparent attitude of attack any person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. (Ord. 2955 Att. A, 2015)

#### 6.08.120 Notification of status change of dangerous and potentially dangerous dogs.

The owner of a dangerous dog or potentially dangerous dog shall immediately notify the police department when the animal:

1. Is loose or unconfined off the property; or
2. Has bitten or injured a human being or other domestic animal; or
3. Is sold, given away or dies; or
4. Is moved to another address. (Ord. 2955 Att. A, 2015)

#### 6.08.130 Violation—Non-declaration no defense.

The fact that a dangerous dog or potentially dangerous dog has not been declared as such under this chapter or similar laws in other jurisdictions shall not excuse noncompliance with the provisions of this chapter or provide a defense in any prosecution hereunder where the owner knew or should have known that the dog was a dangerous dog or potentially dangerous dog as defined in this chapter. (Ord. 2955 Att. A, 2015)

#### 6.08.140 Confiscation of dangerous dogs.

If a dangerous dog attacks or bites a person or another domestic animal, the dangerous dog shall be immediately confiscated by an animal control officer and placed in quarantine for the proper length of time, after which such dangerous dog may be humanely destroyed or otherwise disposed of, within the discretion of the animal control officer. The decision of the animal control officer to have the dog destroyed or otherwise disposed of shall be appealable to the municipal court in the same manner as prescribed under this chapter. In

the event such an appeal is taken, no dog shall be destroyed or otherwise disposed of until after the hearing before the municipal court and the decision thereof. (Ord. 2955 Att. A, 2015)

#### 6.08.150 Euthanasia required—Notice to owner—Appeal.

A. Any dog, regardless of whether or not the dog has previously been declared potentially dangerous or dangerous, shall be required to be expeditiously and humanely euthanized after proper quarantine upon determination the animal:

1. Caused severe physical injury, as defined in RCW [16.08.070](#), or death to a human being; or
2. Has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of, any crime, or which was furnished or was intended to be furnished by any person in the commission of, or as a result of the commission of, any crime.

B. A determination that a dog must be euthanized in accordance with this section must be in writing and shall be served by the animal control officer or police officer upon the owner by one of the following methods:

1. Certificated mail, return receipt requested, to the last known address of the owner, or the address shown on any registration obtained pursuant to Chapter [6.04](#) AMC; or
2. Personal service; [or](#).

[3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.](#)

C. The determination shall set forth at a minimum:

1. A description of the dog;
2. The name and address of the owner of the animal, if known;
3. The location of the animal;
4. A brief statement of the facts upon which the determination is based;
5. The date upon which the determination was mailed or served;
6. Notice of the right to appeal the determination to the municipal court by filing a written request with the city municipal court within five days of the date the determination was mailed and served;
7. A brief statement of the restrictions and regulations applicable to the keeping of the dog or inclusion of a copy of the specific ordinance(s) that have been alleged to have been violated.

**Commented [GF9]:** Officer Zabrina Nybo commented: Same as above, this gives me another way to notify the owner if I am unable to contact them by the first two methods and still be in compliance with the code.

D. Any owner who has been notified of a determination that a dog must be euthanized in accordance with this section may appeal such determination to the municipal court by filing a written request therefor with the municipal court within five days of the date of mailing or service of the determination.

E. Upon receiving a request to appeal a determination the municipal court shall schedule a hearing which shall be held not later than thirty days from the date of the request, unless extended for good cause.

F. At a hearing under this section, the city shall have the burden of proof, by a preponderance of the evidence, to demonstrate that the dog either caused severe physical injury or death to a human, or was used as a weapon in the commission of a crime.

G. Following a hearing under this section, the judge may sustain or overrule the determination of the animal control officer by written order. (Ord. 2955 Att. A, 2015)

#### 6.08.160 Disclaimer of liability.

Nothing in this chapter shall create any cause of action or claim against the city or its officials or employees. No duty to any specific individual shall be created hereby, and any duty that may be found to exist shall be to the general public only. (Ord. 2955 Att. A, 2015)

#### 6.08.170 Violation—Penalty.

A. A violation of Section 6.08.040(A) or 6.08.060(A), failure to register or renew, is a civil infraction; however, no such civil infraction may be assessed until 10 calendar days have elapsed from the date such owner is notified by the Animal Control Authority that such a registration or renewal is required.

1. For a potentially dangerous dog, the civil infraction carries a penalty of two hundred and fifty dollars.

2. For a dangerous dog, the civil infraction carries a penalty of two hundred fifty dollars.

B. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punished by the laws of the state and AMC 1.24.010. In addition to any criminal penalty as provided by this chapter, the owner of the animal, whether the animal is licensed or not, shall be liable for actual expenses for boarding the animal, including any reasonable charges by the impounding authority, and if necessary, for the cost of its destruction. (Ord. 2955 Att. A, 2015)

**Commented [GF10]:** Officer Zabrana Nybo commented: I would like to be consistent with other agencies in Skagit County and change the failure to register/renew from a misdemeanor to a civil infraction. I mail a letter to the dog owner advising that they must register/renew, what is required, how to do it and give them 7 days in which to get it done.

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**6.08.180 Severability.**

In the event any term or condition of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this chapter which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this chapter are declared severable. (Ord. 2955 Att. A, 2015)

## Chapter 6.08

### DANGEROUS DOGS

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#### 6.08.010 Purpose.

It is the purpose of this chapter to provide a means of controlling errant animal behavior so that it shall not become a public nuisance. This chapter shall be construed so as to be consistent with Chapter [16.08](#) RCW. In the event of a conflict between this chapter and any provision of Chapter [16.08](#) RCW, then in that event the applicable provision of Chapter [16.08](#) RCW shall prevail. (Ord. 2955 Att. A, 2015)

#### 6.08.015 Definitions.

A. “Potentially dangerous dog” means any dog that when unprovoked: (a) bites a human or a domestic animal either on public or private property, or (b) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, (c) any dog with a known propensity,

tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals or (d) any dog that has been previously declared a potentially dangerous dog in any other county, state, or foreign country.

B. “Dangerous dog” means any dog that (a) inflicts severe injury on a human being without provocation on public or private property, (b) kills a domestic animal without provocation while the dog is off the owner’s property, or (c) has been previously found to be potentially dangerous because of injury inflicted on a human or domestic animal, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals, or (d) any dog that has been previously declared a dangerous dog in any other county, state, or foreign country.

C. “Severe injury” means any physical injury that results in:

1. One or more broken bones;
2. One or more disfiguring lacerations, avulsions, cuts, or puncture wounds requiring medical attention, including but not limited to one or more sutures, steri-strips, or staples; or
3. Permanent nerve damage;

“Severe injury” also means transmittal of an infectious or contagious disease by an animal.

D. “Proper enclosure of a potentially dangerous dog” means, while on the owner’s property, a potentially dangerous dog shall be securely confined indoors or in a secure kennel, pen, or within a fence which has secure sides of sufficient height and strength to prevent the declared dog’s escape, and the entry of individuals or other domesticated animals. The Animal Control Officer will inspect the kennel, pen or fence to determine if it meets the requirements and may require modifications to be in compliance. Additionally, clearly visible warning signs must be posted on the premises that there is a potentially dangerous dog on the property. The signs must have a symbol or photograph that informs children of the presence of the dog and must be posted at all entrance or exit points to the premises.

E. “Proper enclosure of a dangerous dog” means, while on the owner’s property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog. If the pen or structure has no bottom secured to the sides, they must be embedded into the ground no less than one foot. Additionally, clearly visible warning signs must be posted on the premises that there is a dangerous dog on the property. The signs must have a symbol or photograph that informs children of the presence of the dog and must be posted at all entrance or exit points to the premises.

F.. “Animal control authority” means an entity acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county, and state and the shelter and welfare of animals.

G. “Animal control officer” means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

H. “Owner” means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

I. “Physical control device” for the purpose of this chapter, physical control device is defined as a static leash no longer than six feet in length or carrying cage. (Ord. 2955 Att. A, 2015)

J. “Provoked” means the threat, injury, or damage caused by the dog was sustained by a person who:

1. At the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog; or
2. At the time was tormenting, abusing, or assaulting the dog; or
3. Has in the past, has been observed or reported to have tormented, abused, or assaulted the dog; or
4. At the time was committing or attempting to commit a crime.

## 6.08.020 Adoption by reference.

The following provisions of the Revised Code of Washington as presently constituted or hereafter amended are adopted by reference:

[16.08.080](#) Dangerous dogs—Notice to owners—Right of appeal—Certificate of registration required—Surety bond— Liability insurance—Restrictions

[16.08.090](#) Dangerous dogs—Requirements for restraint—Potentially dangerous dogs—Dogs not declared dangerous

[16.08.100\(1\)](#) Relating to dangerous dogs. (Ord. 2955 Att. A, 2015)

### 6.08.030 Potentially dangerous dogs—Registration and compliance with chapter required.

It is unlawful for any owner to have, maintain or bring into the city any dangerous dog or potentially dangerous dog unless the owner has obtained a certificate of registration for the dog from the city and is in compliance with all of the provisions made applicable to the keeping of such dogs by this chapter. This section shall not apply to dogs used by law enforcement agencies for police work or dogs kept by a licensed veterinarian for medical or quarantine purposes. (Ord. 2955 Att. A, 2015)

### 6.08.040 Potentially dangerous dogs—Certificate of registration—Fee—Requirements.

A. Upon application therefor, and upon payment of a registration fee in the amount of two hundred fifty dollars, the animal control officer shall issue a certificate of registration of potentially dangerous dog to the owner of a dog so classified if the owner presents to the city sufficient evidence of:

1. *Enclosure.* A proper enclosure to confine a potentially dangerous dog, as those terms are defined in this chapter; and
2. *Bond or Insurance.*
  - i. A fifty thousand dollar surety bond issued by a surety insurer qualified under Chapter [48.28](#) RCW in a form acceptable to the city, payable to any person injured by the potentially dangerous animal, or
  - ii. A policy of liability insurance, such as homeowner's insurance, or a public liability insurance issued by an insurer qualified under RCW Title [48](#) and acceptable to the city in an amount of not less than fifty thousand dollars with maximum deductible coverage not to exceed two thousand five hundred in a form requiring notice to the city of cancellation or nonrenewal of such policy not less than thirty days prior to its date of cancellation or expiration, insuring the owner for any personal injuries or property damage inflicted by the animal.

B. Such certificate of registration of a potentially dangerous dog shall be valid for a period of one year following initial declaration and inspection, and subsequent annual inspections.

C. The certificate of registration of potentially dangerous dog shall be in addition to the license required by Chapter [6.04](#) AMC. The annual renewal fee for each potentially dangerous dog registered under this section is fifty dollars. The fee is due by January 1st of each year.

D. The owner of any potentially dangerous dog for which a certificate of registration has been issued by the city or any other city or county authority in the state, or the owner of any unregistered potentially dangerous

dog, shall notify the animal control officer of the city in writing whenever such potentially dangerous dog has either been permanently removed from the city, or has become deceased, within 24 hours of either instance. The written notice to the city must provide the name of the person(s) who are responsible for and have custody of the dog, their phone number(s) and address where the dog now resides. (Ord. 2955 Att. A, 2015)

E. Exemption to Requirements. A dog that for the first time is classified as “potentially dangerous” under the provisions of this chapter may be exempted from the certification requirements above, provided the animal has passed the Canine Good Citizen (CGC) test of the American Kennel Club (AKC), as administered by any AKC certified trainer, received appropriate certification from the AKC, and that certification has been provided to the Anacortes Police Department. Such animal shall be retested at least once every two years and must pass each time in order to maintain this exemption. Any failure to provide current certification within the two-year time period or any failure of the animal to pass shall result in the permanent removal of the exemption. An animal shall be allowed one exemption. The exemption shall cease to continue or apply regardless of certification from the AKC or the passing of CGC testing if the animal acts in a manner that gives rise to a second finding that the animal is “potentially dangerous” under the provisions of this chapter. In the event the animal acts in a manner that gives rise to a finding that the animal has aggressively bitten, attacked, or endangered the safety of humans and/or animals and has been previously classified as “potentially dangerous”, the exemption shall cease to continue, and the dog shall be declared as “dangerous.” The exemption shall be noted on the dog license application.

#### 6.08.050 Potentially dangerous dogs—Enclosure or secure restraint required.

It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside the proper enclosure of the potentially dangerous dog unless such dog is restrained by a substantial physical control device, including a static leash no longer than six feet in length or carrying cage, and under physical restraint of a responsible person. In addition to physical control devices, an animal control officer may require a potentially dangerous dog to be muzzled while outside the proper enclosure. In prescribing the muzzle requirement for a potentially dangerous dog the animal control officer must take into consideration the following factors:

- A. The breed of the animal and its characteristics;
- B. The physical size of the animal;
- C. The number of animals in the owner’s home;
- D. The zoning involved; size of the lot where the animal resides; the number and proximity of neighbors;
- E. The existing control factors, including but not limited to fencing, caging, runs and staking locations;
- F. The nature of the behavior giving rise to the animal control officer determination that the animal is vicious:
  - 1. Extent of injury(ies),

2. Circumstances, e.g., time of day, on/off property, provocation instinct,
3. Circumstances surrounding the result and complaint, e.g., neighborhood disputes, identification, credibility of complainants, and witnesses. (Ord. 2955 Att. A, 2015)

#### 6.08.060 Dangerous dogs—Registration certificate—Fee.

A. Upon application therefor, and upon payment of a registration fee in the amount of two hundred fifty dollars, the city shall issue a certificate of registration of dangerous dog to the owner of such a dog if the owner presents to the city sufficient evidence of:

1. *Enclosure*. A proper enclosure to confine a dangerous dog, as that term is defined herein; and
2. Bond or insurance.
  - i. A two hundred fifty thousand dollar surety bond issued by a surety insurer qualified under Chapter [48.28](#) RCW in a form acceptable to the city in a sum of at least two hundred fifty thousand dollars payable to any person injured by the potentially dangerous animal; or
  - ii. A policy of liability insurance, such as a homeowner's insurance, or public liability insurance acceptable to the city issued by an insurer qualified under RCW Title [48](#) in the amount of not less than two hundred fifty thousand dollars with maximum deductible coverage not to exceed two thousand five hundred dollars in a form requiring notice to the city of cancellation or nonrenewal of such policy not less than 30 days prior to its date of cancellation or expiration, insuring the owner for any personal injuries or property damage inflicted by the animal.

B. Such certificate of registration of a dangerous dog shall be valid for a period of one year, following initial declaration and inspection, and subsequent annual inspections.

C. The certificate of registration of dangerous dog shall be in addition to the license required by Chapter [6.04](#) AMC. The annual renewal fee for each dangerous dog registered under this section is one hundred dollars. The fee is due by January 1st of each year.

D. Any dog that has been declared to be a dangerous dog pursuant to the provisions of Chapter [16.08](#) RCW by any jurisdiction having authority shall be registered as such as provided herein.

E. The owner of any dangerous dog for which a certificate of registration has been issued by the city or any other city or county authority in the state, or the owner of any unregistered dangerous dog, shall notify the animal control officer of the city in writing whenever such dangerous dog has either been permanently removed from the city, or has become deceased within 24 hours of either instance. The written notice to the city must provide the name of the person(s) who are responsible for and have custody of the dog, their phone number(s) and address where the dog now resides. (Ord. 2955 Att. A, 2015)

### 6.08.070 Dangerous dogs—Sterilization required—Further acquisition prohibited.

A. Any dog which is declared to be a “dangerous dog” pursuant to this chapter or Chapter [16.08](#) RCW shall be required to be sterilized by a veterinarian of the owner’s choice, at the owner’s expense. If the owner does not have the animal sterilized within thirty days, the city animal control officer may seize the dog and have the animal sterilized at the owner’s expense.

B. Any person owning a dog which is declared to be a “dangerous dog” pursuant to this chapter or Chapter [16.08](#) RCW is prohibited from acquiring or owning any additional dangerous dogs. (Ord. 2955 Att. A, 2015)

### 6.08.080 Potentially dangerous dogs and dangerous dogs—Impoundment.

Any potentially dangerous dog or dangerous dog may be immediately impounded by an animal control officer if:

- A. The dog is not validly registered under this chapter;
- B. The owner does not secure or maintain either a surety bond or insurance coverage as required by AMC [6.08.040](#) or [6.08.060](#);
- C. The dog is not maintained in the proper enclosure; or
- D. The dog is outside the dwelling of the owner, or outside the proper enclosure and not under proper physical restraint of a responsible person, or muzzled, as required. (Ord. 2955 Att. A, 2015)

### 6.08.090 Microchipping of dangerous and potentially dangerous dogs required.

A. Any dog which is declared to be a “dangerous dog” or “potentially dangerous” pursuant to this chapter or Chapter [16.08](#) RCW or a similar provision in another jurisdiction shall be required to be microchipped by a veterinarian of the owner’s choice, at the owner’s expense and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control authority. This shall be in addition to the other requirements of this chapter and this procedure must be accomplished within thirty days after the owner’s receipt of the dangerous dog or potentially dangerous declaration issued pursuant to this chapter or Chapter [16.08](#) RCW or upon thirty days after moving the potentially dangerous or dangerous animal into the city limits. Documentation of the microchip implant shall be provided to the city, including the microchip identification number, within thirty days after the microchip implantation. If the owner does not have the dog microchipped the city animal control officer may seize the dog and have the animal microchipped at the owner’s expense.

B. Removal of a required microchip implanted in a declared “dangerous dog” or “potentially dangerous” dog shall be unlawful excepting the existence of a valid medical reason as determined by a veterinarian of the owner’s choice. Removal of a required microchip must be reported to the city within thirty days of the procedure with documentation from the veterinarian performing the procedure of the medical reason for removal. (Ord. 2955 Att. A, 2015)

#### 6.08.100 Declaration as dangerous or potentially dangerous dog—Notice to owner—Appeal.

A. The animal control officer shall have the authority to declare any dog in the city a dangerous dog or potentially dangerous dog, which shall serve as notice to the owner that compliance with all provisions of this chapter and state law is required.

B. A declaration by the animal control officer that a dog is dangerous or potentially dangerous must be in writing and shall be served by the animal control officer or a police officer upon the owner by one of the following methods:

1. Certificated mail, return receipt requested, to the last known address of the owner, or the address shown on any registration obtained pursuant to Chapter [6.04](#) AMC; or
2. Personal service; or.
3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.

C. The declaration shall set forth at a minimum:

1. A description of the dog;
2. The name and address of the owner of the animal, if known;
3. The location of the animal if not in the custody of the owner;
4. A brief statement of the facts upon which the declaration is based;
5. The date upon which the declaration was mailed or served;
6. Notice of the right to appeal the declaration to the municipal court by filing a written request therefor with the Anacortes municipal court within fourteen calendar days of the date the declaration was mailed, served, or published.

7. A brief statement of the restrictions and regulations applicable to the keeping of the dog by reason of its status as dangerous or potentially dangerous or inclusion of a copy of the specific ordinance(s) that have been alleged to have been violated.

D. Any owner who has been notified of a declaration of dangerous dog or potentially dangerous dog may appeal such declaration to the municipal court by filing a written request therefor with the city municipal court and the city prosecutor within five days of the date of mailing or service of the declaration.

E. Upon receiving a request to appeal a declaration of dangerous dog or potentially dangerous dog, the municipal court shall schedule a hearing which shall be held not later than thirty days from the date of the request, unless extended by the court for good cause.

F. At a hearing under this section, the city shall have the burden of proof, by a preponderance of the evidence, to demonstrate that the dog is dangerous or potentially dangerous.

G. Following a hearing under this section, the judge may sustain or overrule the determination of the animal control officer by written order.

H. Where an owner has requested a hearing pursuant to this chapter of this section, no potentially dangerous dog or dangerous dog which is in the possession of the animal control officer shall be destroyed until the resolution of such hearing; provided, however, that an additional civil penalty in the amount of fifteen dollars per day shall be assessed against any owner whose dog remains in the custody of the animal control officer during any hearings requested under this chapter which result in any penalty against such owner. In addition to any civil penalty, the owner shall be responsible for all expenses incurred for the dog, including but not limited to the costs of boarding, medical treatment, euthanasia, and carcass disposal.

I. Following any resolution of any contested hearing on any civil penalty under this chapter, the owner of any dangerous dog or potentially dangerous dog in the possession of the animal control officer shall pay all civil penalties assessed under this chapter within ten days of the final resolution of any hearing on said penalties.

J. Any dangerous dog or potentially dangerous dog which has not been picked up from the animal control officer by its owner within ten days of the final resolution of any hearing on civil penalties under this chapter shall be destroyed in an expeditious and humane manner. (Ord. 2955 Att. A, 2015)

#### 6.08.110 Basis for determination.

A dog shall not be considered or declared potentially dangerous or dangerous solely on the basis of inflicting one or more bites on a person or by chasing or approaching in a menacing fashion or apparent attitude of attack any person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. (Ord. 2955 Att. A, 2015)

### 6.08.120 Notification of status change of dangerous and potentially dangerous dogs.

The owner of a dangerous dog or potentially dangerous dog shall immediately notify the police department when the animal:

1. Is loose or unconfined off the property; or
2. Has bitten or injured a human being or other domestic animal; or
3. Is sold, given away or dies; or
4. Is moved to another address. (Ord. 2955 Att. A, 2015)

### 6.08.130 Violation—Non-declaration no defense.

The fact that a dangerous dog or potentially dangerous dog has not been declared as such under this chapter or similar laws in other jurisdictions shall not excuse noncompliance with the provisions of this chapter or provide a defense in any prosecution hereunder where the owner knew or should have known that the dog was a dangerous dog or potentially dangerous dog as defined in this chapter. (Ord. 2955 Att. A, 2015)

### 6.08.140 Confiscation of dangerous dogs.

If a dangerous dog attacks or bites a person or another domestic animal, the dangerous dog shall be immediately confiscated by an animal control officer and placed in quarantine for the proper length of time, after which such dangerous dog may be humanely destroyed or otherwise disposed of, within the discretion of the animal control officer. The decision of the animal control officer to have the dog destroyed or otherwise disposed of shall be appealable to the municipal court in the same manner as prescribed under this chapter. In the event such an appeal is taken, no dog shall be destroyed or otherwise disposed of until after the hearing before the municipal court and the decision thereof. (Ord. 2955 Att. A, 2015)

### 6.08.150 Euthanasia required—Notice to owner—Appeal.

A. Any dog, regardless of whether or not the dog has previously been declared potentially dangerous or dangerous, shall be required to be expeditiously and humanely euthanized after proper quarantine upon determination the animal:

1. Caused severe physical injury, as defined in RCW [16.08.070](#), or death to a human being; or
  2. Has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of, any crime, or which was furnished or was intended to be furnished by any person in the commission of, or as a result of the commission of, any crime.
- B. A determination that a dog must be euthanized in accordance with this section must be in writing and shall be served by the animal control officer or police officer upon the owner by one of the following methods:
1. Certificated mail, return receipt requested, to the last known address of the owner, or the address shown on any registration obtained pursuant to Chapter [6.04](#) AMC; or
  2. Personal service; or.
  3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.
- C. The determination shall set forth at a minimum:
1. A description of the dog;
  2. The name and address of the owner of the animal, if known;
  3. The location of the animal;
  4. A brief statement of the facts upon which the determination is based;
  5. The date upon which the determination was mailed or served;
  6. Notice of the right to appeal the determination to the municipal court by filing a written request with the city municipal court within five days of the date the determination was mailed and served;
  7. A brief statement of the restrictions and regulations applicable to the keeping of the dog or inclusion of a copy of the specific ordinance(s) that have been alleged to have been violated.
- D. Any owner who has been notified of a determination that a dog must be euthanized in accordance with this section may appeal such determination to the municipal court by filing a written request therefor with the municipal court within five days of the date of mailing or service of the determination.
- E. Upon receiving a request to appeal a determination the municipal court shall schedule a hearing which shall be held not later than thirty days from the date of the request, unless extended for good cause.
- F. At a hearing under this section, the city shall have the burden of proof, by a preponderance of the evidence, to demonstrate that the dog either caused severe physical injury or death to a human, or was used as a weapon in the commission of a crime.

G. Following a hearing under this section, the judge may sustain or overrule the determination of the animal control officer by written order. (Ord. 2955 Att. A, 2015)

#### 6.08.160 Disclaimer of liability.

Nothing in this chapter shall create any cause of action or claim against the city or its officials or employees. No duty to any specific individual shall be created hereby, and any duty that may be found to exist shall be to the general public only. (Ord. 2955 Att. A, 2015)

#### 6.08.170 Violation—Penalty.

A. A violation of Section 6.08.040(A) or 6.08.060(A), failure to register or renew, is a civil infraction; however, no such civil infraction may be assessed until 10 calendar days have elapsed from the date such owner is notified by the Animal Control Authority that such a registration or renewal is required.

1. For a potentially dangerous dog, the civil infraction carries a penalty of two hundred and fifty dollars.
2. For a dangerous dog, the civil infraction carries a penalty of two hundred fifty dollars.

B. Any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punished by the laws of the state and AMC [1.24.010](#). In addition to any criminal penalty as provided by this chapter, the owner of the animal, whether the animal is licensed or not, shall be liable for actual expenses for boarding the animal, including any reasonable charges by the impounding authority, and if necessary, for the cost of its destruction. (Ord. 2955 Att. A, 2015)

#### 6.08.180 Severability.

In the event any term or condition of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this chapter which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this chapter are declared severable. (Ord. 2955 Att. A, 2015)