

- Meetings may be viewed on the [City of Anacortes website](#), on the City of Anacortes [YouTube](#) Channel, or on TV [Channel 10](#).
- The public may also watch, listen to, or participate in the meeting live by visiting <https://us02web.zoom.us/j/89255646791> or by telephoning 1-253-215-8782 and entering Meeting ID 892 5564 6791.
- The public is encouraged to comment via email to 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

September 5, 2023
6:00 PM

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

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
 - a. Police Officer Swearing In (Presentation)
 - b. Samish Indian Nation Quarterly Meeting (Report)
 - c. Housing Affordability and Community Services Committee (Report)
 - d. Public Works Committee (Report)
 - e. Public Safety Committee (Report)
 - f. Port / City Liaison Committee (Report)
4. **Public Comment**
5. **Consent Agenda**
 - a. Minutes of August 28, 2023 (Action)
 - b. Approval of claims in the amount of \$573,544.47 (Action)
 - c. Contract Award: Alternative Response Team #23-243-IDS-001 (Action)
 - d. Contract Award: 20th Street and Q Avenue Sewer Replacement #23-247-SEW-001 (Action)
6. **Other Business**
 - a. Contract Modification: Lead and Copper Rule (LCR) Sampling Plan Support and Lead and Copper Rule Revision (LCRR) Gap Analysis #22-285-WTR-001 (Discussion/Action)
 - b. Interlocal Agreement: North Cascades Regional Special Weapons and Tactics (SWAT) Team #23-246-IDS-001 (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 - August 28, 2023

Call to Order

Mayor Matt Miller called to order the Anacortes City Council meeting of August 28, 2023 at 6:00 p.m. Councilmembers Jeremy Carter, Ryan Walters, Anthony Young, Christine Cleland-McGrath, and Carolyn Moulton were present. Councilmember Amanda Hubik participated in the meeting remotely via Zoom. Councilmember Bruce McDougall was absent.

Ms. Moulton moved, seconded by Mr. Young, to excuse the absence of Mr. McDougall. The motion carried unanimously by voice vote.

Pledge of Allegiance

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Mayor Miller provided an update on the ladder truck purchase, which is expected to be delivered by April 2024, and the receipt of an Association of Washington Cities grant to support the community outreach coordinator. He thanked the staff and public for their efforts in making last weekend's Open Streets a successful event. He concluded by announcing that there would be an open house on September 9th at Naval Air Station Whidbey Island from 8am-3pm.

Confirmation of Public Works Director

Mayor Miller introduced the proposed Public Works Director, Andrew Rheume, asking the Council to confirm his appointment effective as of September 11, 2023.

Mr. Young moved, seconded by Mr. Carter to confirm the appointment of Mr. Rheume as the Public Works Director for the City of Anacortes. The motion carried unanimously by voice vote.

Fiber Committee

Mr. Walters reported from the Fiber Committee meeting held August 24th. The topics discussed included service installation metrics, fiber business engine use, the Economic Development Administration grant implementation, the Guemes View take rate, 2053 customers in service, a new secondary upstream provider, financing options, and a budget update.

Housing Affordability and Community Services Committee

Ms. Moulton reported from the Housing Affordability and Community Services Committee meeting held August 23rd. The topic discussed was the multi-family tax exemption program.

Planning Committee

Ms. Cleland-McGrath reported from the Planning Committee meeting held earlier in the evening. The topics discussed included a community member who saved the bowling pin sign from the former San Juan Lanes and the short-term rental moratorium.

Museum Committee

Ms. Cleland-McGrath reported from the Museum Committee meeting held August 24th. The topics discussed included the 2024 budget proposal for additional artifact storage and workspace with project design in 2024 and construction in 2025.

Public Comment

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

Public comment was given as follows:

Pat Gardner of Anacortes addressed long-term parking and the associated fines for an infraction, advocating for increased fines to deter illegal parking.

Consent Agenda

Ms. Moulton moved, seconded by Ms. Cleland-McGrath, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

a. Minutes of August 21, 2023

b. Approval of claims in the amount of \$1,038,857.02

The following vouchers/checks were approved for payment:

EFT numbers: 107178 through 107192, total \$293,333.77

Check numbers: 107193 through 107222, total \$737,123.26

Wire transfer numbers: 329885 through 330182, total \$8,399.99

Other Business

Contract Award: Pass Lake 10-inch Watermain Replacement Project - Design #20-071-WTR-002

Interim Public Works Director, Tim Hohmann, introduced the proposed contract #20-071-WTR-002 for the Pass Lake 10-inch Watermain Replacement Project Design. He provided project details, referring to a map of the project area that was added to the packet materials for the meeting.

Discussion topics included:

- Evaluation of an additional section of water line from Pass Lake to Harold's Market.

CAROLYN MOULTON moved, seconded by AMANDA HUBIK, to authorize the Mayor to sign contract #20-071-WTR-002 with Kimley-Horn and Associates, Inc. for \$381,622.

Vote: Ayes - ANTHONY YOUNG, CHRISTINE CLELAND-MCGRATH, RYAN WALTERS, CAROLYN MOULTON, JEREMY CARTER, AMANDA HUBIK. Nays - None. Result: Passed

Executive Session

Potential Litigation or Litigation per RCW 42.30.110(1)(i) (30 minutes)

Mayor Miller announced at 6:30pm that the City Council and the City Attorney would convene in Executive Session per RCW 42.30.110 (i) for approximately 30 minutes to discuss litigation. Mayor Miller announced the extension of the executive session for an additional 15 minutes. The Council returned from executive session at 7:13 p.m.

Adjournment

There being no further business, at approximately 7:13 p.m. the Anacortes City Council meeting of August 28, 2023 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 September 5, 2023 City Council meeting:
[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
330265	5/31/2023	118351	VECA ELECTRIC & TECHNOLOGIES	UNIT-PRICED ELECTRICAL	\$ 1,731.36	pw1
330513	6/26/2023	14538	NW COMMUNICATIONS, INC	RADIO REMOVAL AND REPAIR FOR VEHICLE #2001	\$ 1,766.86	dshop
330224	7/3/2023	0157631-IN	SWS EQUIPMENT	PARTS FOR VEHICLE #516	\$ 1,096.68	dshop
330423	7/11/2023	2023-1104	THE WATERSHED COMPANY	SHORELINE MASTER PROGRAM (SMP) USER GUIDE & WEBSITE PROJECT - THRU 06/30/23	\$ 4,276.25	plan
330505	7/20/2023	ReimbCousins	COUSINS, RICHARD	MEDICAL COPAY REIMBURSEMENT, LEOFF 1 RETIRFF	\$ 106.07	hr
330500	7/29/2023	00005W5A83303	UNITED PARCEL SERVICE, INC	UPS SHIPPING; WEEK ENDING 7/29/23	\$ 11.51	apd
330501	8/5/2023	00005W5A83313	UNITED PARCEL SERVICE, INC	UPS SHIPPING; WEEK ENDING 8/5/23	\$ 11.51	apd
330522	8/8/2023	200000667101	PUGET SOUND ENERGY INC	LIBRARY 1220 10TH 7/1 - 7/31/2023	\$ 5,005.88	publib
330262	8/10/2023	20115A	THE PLUMBING GUYS, INC	CITY HALL WATER FOUNTAIN INSTALLATION	\$ 3,742.72	pw1
330415	8/10/2023	3123	POSM SOFTWARE LLC	POSM - ANNUAL SOFTWARE SUPPORT RENEWAL	\$ 2,000.00	dshop
330404	8/14/2023	RE 41 JZ0893 L007	WASHINGTON STATE DEPARTMENT	PLAN REVIEW FOR THE COMMERCIAL AVENUE COMPLETE STREETS PROJECT PHASE 1	\$ 2,385.97	pw1
330523	8/16/2023	1101083180	INSIGHT PUBLIC SECTOR, INC	RED HAT LINUX LICENSE	\$ 1,033.89	fiber
330259	8/16/2023	44301054	TWO RIVERS TERMINAL, LLC	PUMP STATION CHEMICALS	\$ 9,361.49	dwwtp
330498	8/17/2023	1000140238	ISLAND HOSPITAL	RURAL HEALTH CARE REIMBURSEMENT	\$ 5,236.70	fiber
330257	8/17/2023	23-21693	EDGE ANALYTICAL, INC	LAB TESTING - EFFLUENT ANNUAL	\$ 1,755.25	dwwtp
330263	8/17/2023	5026	RAINIER ENVIRONMENTAL LAB	LAB TESTING	\$ 950.00	dwwtp
330406	8/17/2023	FT240008	WASHINGTON STATE PATROL	ACADEMY TUITION, LODGING, FOOD SERVICE - BOYLE	\$ 9,098.00	medic
330409	8/17/2023	INV25572	SEAWESTERN, INC.	30 PARTICULATE BLOCKING HOODS	\$ 3,392.93	medic

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
330412	8/17/2023	INV25575	SEAWESTERN, INC.	ANNUAL COMPRESSOR MAINTENANCE	\$ 1,191.36	medic
330514	8/19/2023	1101084025	INSIGHT PUBLIC SECTOR, INC	NEOGOV WEB BASED RECRUITING SOFTWARE -	\$ 9,133.90	hr
330335	8/19/2023	243062	LAKESIDE INDUSTRIES, INC.	STREET ASPHALT- WATER DEPT	\$ 1,326.01	wdist
330520	8/20/2023	9942520154	VERIZON WIRELESS	SCADA COMMUNICATIONS FOR WWTP 7/21-8/20/23	\$ 1,223.84	dwwtp
330502	8/21/2023	038 200 0000 2	CASCADE NATURAL GAS CORP.	APD 7/19-8/18/23	\$ 685.64	apd
330525	8/21/2023	154 700 0000 9	CASCADE NATURAL GAS CORP.	LIBRARY 7/19-8/18 2023	\$ 488.25	publib
330417	8/21/2023	169 400 0000 9	CASCADE NATURAL GAS CORP.	STA 2: 7/19 - 8/18	\$ 23.05	medic
330518	8/21/2023	199 800 0000 4	CASCADE NATURAL GAS CORP.	R AVENUE 7/19-8/18/23	\$ 13.00	museum
330413	8/21/2023	674 400 0000 7	CASCADE NATURAL GAS CORP.	STA 1: 7/19 - 8/18	\$ 65.80	medic
330218	8/21/2023	710 300 0000 5	CASCADE NATURAL GAS CORP.	OPS: 7/19 - 8/18/23	\$ 88.43	dshop
330519	8/21/2023	912 800 0000 0	CASCADE NATURAL GAS CORP.	1305 8TH STREET 7/19-8/18/23	\$ 16.51	museum
330258	8/21/2023	989 800 0000 8	CASCADE NATURAL GAS CORP.	WWTP 7/19-8/18/23	\$ 13.00	dwwtp
330402	8/22/2023	12P35639	MOTOR TRUCKS, INC	PARTS FOR VEHICLE #609	\$ 717.53	dshop
330219	8/22/2023	1635926	WALTON BEVERAGE COMPANY, INC	CITY HALL BREAK ROOM SUPPLIES	\$ 70.00	finance
330217	8/22/2023	20231656	SYSTEMS DESIGN WEST, LLC	AMBULANCE SERVICE BILLING 072023	\$ 2,469.79	finance
330337	8/22/2023	23-25398	EDGE ANALYTICAL, INC	WATER ANALYSIS - BACT FINISHED	\$ 19.00	dwwtp
330186	8/22/2023	231004	T-SHIRTS BY DESIGN	ADULT SOFTBALL TOURNAMENT PRIZES	\$ 400.38	pkrec
330220	8/22/2023	34441B	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 107.35	pwwfac
330221	8/22/2023	344770A	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 278.88	pwwfac
330222	8/22/2023	344920	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 31.14	pwwfac
330223	8/22/2023	345008	BAY CITY SUPPLY	FACILITY SUPPLIES	\$ 343.01	pwwfac
330430	8/22/2023	37272	SKAGIT PUBLISHING LLC	PUBLISH SVH-411999	\$ 59.18	legal
330414	8/22/2023	410501-23	IDENTIFIX	IDENTIFIX GOV SUBSCRIPTION	\$ 1,428.00	dshop
330325	8/22/2023	9812950955	GRAINGER	MAINTENANCE SUPPLIES	\$ 52.36	dwwtp
330428	8/22/2023	I6492108	HD FOWLER COMPANY INC	MAINTENANCE - INCINERATOR	\$ 4,059.92	dwwtp
330336	8/22/2023	INV00112506	USA BLUE BOOK	LIQUINOX, FLUORIDE REAGENT	\$ 1,031.30	dwwtp
330497	8/23/2023	026P48064	DOBBS PETERBILT - MARYSVILLE	PARTS FOR VEHICLE #609	\$ 439.67	dshop
330261	8/23/2023	2023.8A	BAYVIEW CONSULTING, LLC	FORMER WTP DEMOLITION PROJECT: SPECIAL PROJECT MANAGER - AUG 2023	\$ 5,525.00	dwwtp

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
330338	8/23/2023	23-25479	EDGE ANALYTICAL, INC	WATER ANALYSIS - TCR INTOWN	\$ 209.00	dwtp
330411	8/23/2023	230833	BLYTHE MECHANICAL, INC	HVAC ON-CALL REPAIR SERVICES - PUBLIC SAFETY AMTROL EXPANSION TANK	\$ 5,019.43	pw1
330424	8/23/2023	231095	BLYTHE MECHANICAL, INC	HVAC ON-CALL REPAIR SERVICES - WTP A/C MAIN UNIT REPAIR	\$ 6,032.49	pw1
330260	8/23/2023	234730	CONTROL FACTORS-SEATTLE INC	MAINTENANCE SUPPLIES	\$ 6,272.32	dwwtp
330431	8/23/2023	37285	SKAGIT PUBLISHING LLC	PUBLISH SVH-413515	\$ 166.78	plan
330516	8/23/2023	904262	NORTH HARBOR DIESEL	SERVICE #1300	\$ 2,748.68	dshop
330425	8/23/2023	P0002-69	QCC QUALITY CONTROLS CORP.	ON-CALL PROFESSIONAL SERVICES AT THE WTP - JULY 2023	\$ 152.00	dwtp
330508	8/24/2023	09797	BUD CLARY CHEVROLET, INC.	PURCHASE POLICE VEHICLE	\$ 51,424.66	dshop
330326	8/24/2023	9817093488	GRAINGER	MAINTENANCE SUPPLIES	\$ 251.72	dwwtp
330266	8/24/2023	INV274726	KNOWBE4, INC.	KNOWBE4 CYBER SECURITY AWARENESS TRAINING PROGRAM 10/3/23-10/2/24	\$ 5,224.23	infosys
330426	8/24/2023	Pay App 1	RAW LAND CONSTRUCTION LLC	2023 FIDALGO AVENUE WATERLINE REPLACEMENT	\$ 98,474.88	pw1
330264	8/24/2023	Pay App 5	RAW LAND CONSTRUCTION LLC	2023 WATERLINE REPLACEMENTS	\$ 88,228.20	pw1
330405	8/25/2023	0000350874	CALDER BROTHERS CORPORATION	MULTI-FUNCTION GRADER PURCHASE	\$ 158,920.00	dshop
330334	8/25/2023	23-171-FAC-0011	DOORMAN COMMERCIAL, LLC	RETAINAGE RELEASE	\$ 1,058.86	pw1
330397	8/25/2023	23-24325	EDGE ANALYTICAL, INC	LAB TESTING - EFFLUENT NUTRIENTS MONTHLY	\$ 99.45	dwwtp
330398	8/25/2023	23-24389	EDGE ANALYTICAL, INC	LAB TESTING - INFLUENT NITROGEN - MONTHLY	\$ 40.80	dwwtp
330512	8/25/2023	47968	SCRAP-IT	SCRAP RV DISPOSAL	\$ 1,571.88	dshop
330509	8/25/2023	47969	SCRAP-IT	RV DISPOSAL	\$ 1,138.66	dshop
330327	8/25/2023	96029892	SOFTCHOICE CORPORATION	EXCHANGE SERVER MIGRATION	\$ 319.50	infosys
330342	8/25/2023	Employee ID 0350	DEPARTMENT OF ECOLOGY	INCINERATOR RECERTIFICATION - HW	\$ 200.00	dwwtp
330344	8/25/2023	Employee ID 0362	DEPARTMENT OF ECOLOGY	INCINERATOR RECERTIFICATION - OF	\$ 200.00	dwwtp
330346	8/25/2023	Employee ID 0380	DEPARTMENT OF ECOLOGY	INCINERATOR RECERTIFICATION - WD	\$ 200.00	dwwtp
330343	8/25/2023	Employee ID 0661	DEPARTMENT OF ECOLOGY	INCINERATOR RECERTIFICATION - SD	\$ 200.00	dwwtp

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
330341	8/25/2023	Employee ID 0665	DEPARTMENT OF ECOLOGY	INCINERATOR RECERTIFICATION - AV	\$ 200.00	dwwtp
330339	8/25/2023	Employee ID 0734	DEPARTMENT OF ECOLOGY	INCINERATOR RECERTIFICATION - KW	\$ 200.00	dwwtp
330340	8/25/2023	Employee ID 1005	DEPARTMENT OF ECOLOGY	INCINERATOR RECERTIFICATION - MG	\$ 200.00	dwwtp
330418	8/25/2023	INV25801	SEAWESTERN, INC.	FIREFIGHTING GLOVES (13)	\$ 1,789.22	medic
330511	8/25/2023	P0001-86	QCC QUALITY CONTROLS CORP.	ON CALL PROFESSIONAL SERVICES AT WWTP - JULY 2023	\$ 551.00	dwwtp
330507	8/25/2023	Pay App 6	COLACURCIO BROTHERS CONST	32ND STREET AND M AVENUE INTERSECTION IMPROVEMENTS PROJECT	\$ 22,117.90	pw1
330400	8/26/2023	1143	COLUMBIA BASIN WATER WORKS INC	METER REPAIRS	\$ 2,870.77	wdist
330504	8/27/2023	0748	FIDALGO CLEANING	APD CLEANING & SUPPLIES 8/14-8/27/23	\$ 800.00	apd
330416	8/28/2023	23-24365	EDGE ANALYTICAL, INC	LAB TESTING - MERCURY EFFICIENCY TESTING SPC	\$ 1,025.10	dwwtp
330463	8/28/2023	23-24391	EDGE ANALYTICAL, INC	LAB TESTING SIDE STREAM NITROGEN MONTHLY	\$ 321.30	dwwtp
330429	8/28/2023	23-24397	EDGE ANALYTICAL, INC	LAB TESTING	\$ 382.50	dwwtp
330495	8/28/2023	23-24569	EDGE ANALYTICAL, INC	WATER ANALYSIS - BACT RAW	\$ 63.00	dwwtp
330499	8/28/2023	8675	ANACORTES TOWING, LLC	TOWING; APD CASE 23-A06436	\$ 176.26	apd
330515	8/28/2023	906051752	EVOQUA WATER TECHNOLOGIES LLC	SECONDARY CLARIFIER DRIVE UNIT REPLACEMENT: TECHNICAL CONSULTING	\$ 18,400.00	dwwtp
330407	8/28/2023	IN952291	NOANET	MUNICIPAL FIBER NETWORK COORDINATED SERVICES -2021 EXP. AREAS - AUGUST 2023	\$ 2,511.00	fiber
330408	8/28/2023	IN952292	NOANET	MUNICIPAL FIBER NETWORK COORDINATED SERVICES - GUEMES VIEW - AUGUST 2023	\$ 972.00	fiber
330410	8/28/2023	IN952293	NOANET	MUNICIPAL FIBER NETWORK COORDINATED SERVICES - ROUTE 1-5 - AUGUST 2023	\$ 226.18	fiber
330496	8/28/2023	INV00116633	USA BLUE BOOK	METHYL ORANGE INDICATOR SOLUTION	\$ 32.57	dwwtp
330427	8/28/2023	S202311254	SUPERIOR SYSTEMS, INC	MAINTENANCE - CRANE BRACKET	\$ 200.62	dwwtp

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
330521	8/29/2023	12P35991	MOTOR TRUCKS, INC	BRACKETS #607	\$ 24.04	dshop
330506	8/29/2023	2023-001 APR	SKAGIT VALLEY SOFTBALL	ADULT SOFTBALL LEAGUE OFFICIALS	\$ 1,690.00	pkrec
330524	8/29/2023	360089837	AWC EMPLOYEE BENEFIT TRUST	COBRA COVERAGE PAYMENT SEPT	\$ 921.12	hr
330510	8/29/2023	AUGUST 2023	KORTERUD, WAYNE D	AUG 2023 - PUBLIC DEFENDER SCREENING	\$ 415.00	court
330563	8/30/2023	0004	HICKMAN, LANA	ART CAMP INSTRUCTOR PAYMENT	\$ 2,100.00	pkrec
330332	9/9/2023	23-167-FAC-0011	NORTHWIND FENCE CO, LLC	RETAINAGE RELEASE	\$ 2,672.70	pw1
330329	9/16/2023	23-196-WTR-0021	BAYSIDE SERVICES	RETAINAGE RELEASE	\$ 264.28	pw1
	Total				\$ 573,544.47	



City Council Agenda Bill

Meeting Date: September 5, 2023 **Agenda Item:** 5.c.

Agenda Item Title: Contract Award: Alternative Response Team #23-243-IDS-001

Staff Contact(s): Bill Harris

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

Item Summary: City staff seek approval to execute Contract 23-243-IDS-001 with the Anacortes Family Center (AFC), under which the parties will continue to operate the Alternative Response Team to coordinate mental health services, social worker services, and City services between the Anacortes Fire Department, the Anacortes Police Department and the AFC to better respond to emergency calls.

Background: This contract allows for a continuation of the partnership between the City and AFC to provide an Alternative Response Team to assist our unhoused population. The AFC provides the Social Outreach and Mental Health Provider components of the team. This contract provides no change to the existing structure of the team but is, in effect, a continuation of the previous contract which expired on June 30th of this year. The funding is being provided through an \$80,000 grant we received from the Association of Washington Cities.

Key Terms:

- The City will pay AFC on a time and materials basis not to exceed \$80,000.
- The term of this Agreement shall be from July 1, 2023 through June 30, 2024.

Budget Impact:

Contractor	Anacortes Family Center
Agreement Amount	\$80,000.00

BARS #	110.320.522.70.41
Budget Amendment Required?	No
Start Date	7/1/23
End Date	6/30/24

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to execute Contract 23-243-IDS-001 between the City of Anacortes and the Anacortes Family Center.

Alternative Actions: Not approve the contract.

Attachments (listed in order presented):

1. 23-243-IDS-001



AGREEMENT 23-243-IDS-001
Between
THE CITY OF ANACORTES
and
ANACORTES FAMILY CENTER

This Agreement, hereinafter referred to as "Agreement", made and entered into between the City of Anacortes, hereinafter referred to as the "City", and the Anacortes Family Center, hereinafter referred to as the "AFC", together referred to as "Parties".

WHEREAS the City works cooperatively with the AFC to help members of the community in need due to crises involving addiction, violence and mental health; and

WHEREAS the City has seen greater success in addressing these issues due to the expertise and case workers provided by the AFC; and

WHEREAS the City staff in the Anacortes Fire Department, Anacortes Police Department, Planning Economic and Community Development and Parks and Recreation see a reduction in staff time and call volume in cases where there is collaboration with the AFC; and

WHEREAS the City has built a strong working relationship with the AFC staff and rely regularly on the resources the AFC provides to better serve the community; and

WHEREAS the Parties entered into a pilot program through contract 23-055-AFD-001 that created an Alternative Response Team ("ART") to coordinate mental health services, social worker services, and City services between the Anacortes Fire Department, the Anacortes Police Department and the AFC to better respond to emergency calls; and

WHEREAS the City has received grant number ART23-01 from Association of Washington Cities, funded under Senate Bill 5187, Section 215-69a, for the Alternative Response Co-Responder Program; and

WHEREAS the Parties now wish to extend the Alternative Response Team ("ART") program for an additional term;

NOW, THEREFORE, the Parties agree as follows:

1. **Incorporated Terms**

All work performed by AFC shall comply with all terms, conditions, assurances and certifications set forth in of Association of Washington Cities grant number ART23-01 which is hereby incorporated herein and made a part hereof by reference.

2. **Scope of Work**

a. Services

- i. The AFC will provide a Mental Health Professional for up to seven and a half (7.5) hours per week on average during the term of this Agreement.
- ii. The AFC will provide a Street Outreach Social Worker for up to twenty (20) hours per week on average during the term of this Agreement.

b. Response

- i. The AFC will respond to all requests from the City for assistance with individuals in crisis. AFC shall make every reasonable effort to respond to requests from the City within 24 hours.
- ii. The AFC will either provide the necessary response with their in-house staff or contract with certified professionals.
- iii. AFC Staff and AFCs will be available 8:30 to 5pm Monday through Friday to respond to requests from the City.

3. **Price and Payment**

- a. Price: The AFC will perform the scope of work above on a time and materials basis not-to-exceed **Eighty Thousand Dollars (\$80,000.00)**. This includes costs for Mental Health Professional services, Street Outreach Social Worker services, sales tax at a rate of 8.8%, and an administrative fee of 10%.
- b. AFC will invoice the City monthly.

4. **Reporting**

- a. City will identify and prescribe metrics for data collection pursuant to this Agreement and will review and update those metrics throughout the Term of this Agreement based on what data best informs the Parties' assessment of the efficacy of the pilot program. The metrics must include at least numbers of individuals served and data-based assessment of the expanded outreach under this pilot program. Metrics should also include pre-pilot program data so the Parties and public can evaluate program success.
- b. City will present at regular City Council meetings periodic reports on the efficacy of the pilot program no less frequently than quarterly. Such reports will include the full set of data collected pursuant to the metrics identified and prescribed by the City under paragraph 1(a)(ii).
- c. The AFC will provide an accounting of hours and/or number of calls taken for evaluation on an annual basis. On calls that are assigned a police case number, the AFC will need to provide follow up information to the Anacortes Police Department for each case on a monthly basis until that case is closed.
- d. The AFC will provide the City data showing numbers of individuals served under this Agreement and work cooperatively with the City to prepare the quarterly reports before Council. AFC will provide data to the City in a format prescribed by the City pursuant to paragraph (1)(a)(ii) above.

5. **Term.** The term of this Agreement will be from the July 1, 2023 through June 30, 2024.

6. **Indemnification:** The Parties shall defend, indemnify and hold each other and the indemnified party's officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, solely arising out of or solely resulting from the acts, errors or omissions of the indemnifying party in performance of this Agreement.

7. **Insurance.**

- a. **Insurance Term:** AFC shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the AFC, its agents, representatives, or employees.
- b. **No Limitation:** AFC's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the AFC 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:** AFC shall obtain insurance of the types and coverages described below:
 - i. **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.
 - ii. **Commercial General Liability** insurance shall be at least as broad as ISO occurrences form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the

AFC's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.

- iii. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
 - d. **Minimum Amounts of Insurance:** AFC shall maintain the following insurance limits:
 - i. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
 - ii. 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 AFC Limits:** If AFC 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 AFC, irrespective of whether such limits maintained by AFC 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 AFC.
 - f. **Other Insurance Provision:** AFC'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 AFC'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:** AFC 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 AFC within 10 days of contract execution and before scheduling of the work. Upon request by the City, AFC shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractor's coverage.
 - i. **Notice of Cancellation:** AFC 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.
 - j. **Failure to Maintain Insurance:** Failure on the part of AFC 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 AFC 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 AFC from the City.
8. **No Joint Ventures:** The Parties acknowledge that no joint venture or partnership is created by this Agreement. No agent, employee or representative of AFC shall be deemed to be an agent, employee or representative of the City for any purpose. AFC shall be solely responsible for all acts of its agents, employees, representatives and subcontractors.
9. **Effectiveness:** This Agreement shall be effective as of the date this agreement is executed by both parties.

10. **Notices**: Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand delivered to the parties at their addresses as follows:

To the City: City of Anacortes
Attn: Darcy Swetnam, City Attorney
PO Box 547
Anacortes, WA 98221

To the AFC: Anacortes Family Center
Attn: Dustin Johnson, CFRE
Executive Director
2702 Commercial Avenue
Anacortes, WA 98221

11. **Governing Law; Binding Effect**: This Agreement shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and performed in such state without giving effect to the choice of law principles of such state that would require or permit the application of the laws of another jurisdiction.
12. **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.
13. **Counterparts**: This Agreement may be executed in one or more counterparts, including electronic counterparts, each of which shall be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF, the City and AFC have executed this Agreement as of _____.

CITY OF ANACORTES

ANACORTES FAMILY CENTER

Matt Miller, Mayor

Dustin Johnson, Executive Director



City Council Agenda Bill

Meeting Date: September 5, 2023 **Agenda Item:** 5.d.

Agenda Item Title: Contract Award: 20th Street and Q Avenue Sewer Replacement #23-247-SEW-001

Staff Contact(s): TIM HOHMANN

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

Item Summary: City staff seek City Council consent to award a contract in the amount of \$115,000.00 to Tonka Ground Work to perform the 20th Street and Q Avenue Sewer Replacement Project.

Background:

1. **History:** This sewer main has an unknown utility bored through the middle of the line, as well as many offsets in the segments of pipe that need to be replaced, and is unable to be relined.
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, 2023.
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 Tonka Ground Work.

Budget Impact:

Contractor	Tonka Ground Work
Contract Amount	\$115,000.00
Earmarked Funds	\$1,500,000.00

BARS #	440.760.594.35.62
Budget Amendment Required?	No
Start Date	Notice to Proceed
End Date	12/31/2023

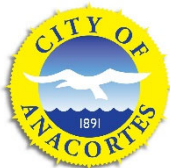
Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to sign contract 23-247-SEW-001 with Tonka Ground Work in the amount of \$115,000.00 to perform the 20th Street and Q Avenue Sewer Replacement Project.

Alternative Actions: Not award the contract.

Attachments (listed in order presented):

1. 23-247-SEW-001



CONTRACT 23-247-SEW-001
AGREEMENT WITH
TONKA GROUND WORK

This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and Tonka Ground Work, a private contractor at 1215 41st St, Anacortes, WA 98221 (herein after referred to as "Contractor").

PROJECT
20th and Q Sewer Replacement Project

1. **Scope of Work:** Contractor shall furnish all materials, equipment and labor to replace approximately 300' of 12-inch clay main that is failing with 12-inch pvc sewer segment #SSI00112001371, from the 2000 Block of Q Ave west to the 2000 block of Commercial Ave. Work also includes reconnecting six side services to the new main and repaving the asphalt alley. Work is subject to the 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)**. This includes all mobilization, demobilization, labor, materials, standard freight, 8.8% sales tax, and administrative overhead 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, 2023.

5. **Project Management:** Coordination and scheduling of the work, materials, and equipment shall be made with the Project Manager, John Norris (360) 770-4664.

6. **Contract Requirements:** As detailed in the General Provisions, Contractor must have a valid contractor license number, insurance, and City of Anacortes business license. **Prevailing Wage Law Applies.** Forms Needed: 1) Proof of Insurance with Additional Insured Endorsements; 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 and the 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:

Tonka Ground Work

Date

Contractor License #

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 City, located at 904 6th Street, Anacortes, WA. Upon request, the City 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:

- a. All liens placed against the project have been released.
- b. For projects over \$35,000, releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries have been received.

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. Final Acceptance. Final Acceptance is defined as the date on which the City accepts the Work as complete, as indicated by notice issued by the City. For the purposes of the retainage statute (RCW 60.28.011), "completion of all contract work" is the same as the date of Final Acceptance. The following events must occur before the City will issue Final Acceptance:

- a. The physical Work on the project must be complete and accepted by the Project Manager; and
- b. The Contractor must submit to the City, and secure City approval of, all documentation required by the Contract and required by law, including but not limited to:
 - i. Invoices for all Work;
 - ii. Copies of the "Affidavit of Prevailing Wages Paid" as approved by L&I for the Contractor and all Subcontractors; and
 - iii. Any additional documentation required by the Contract.

5. Penalties for Noncompliance. If Contractor does not provide "Affidavit of Prevailing Wages Paid" to the City, the City may withhold any or all payments until required documentation is received. In addition, failure to provide "Intent to Pay Prevailing Wage" or "Affidavit of Wages Paid" may result in other sanctions as provided by State laws (RCW 39.12.050) and/or Federal regulations (29 CFR 5.12).

6. 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. Contractor remains fully responsible for obligations, services, and functions performed by its subcontractors to the same extent as if such obligations, services, and functions were performed by Contractor's employees, and for purposes of the Agreement such work will be deemed work performed by Contractor. 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.

7. 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.

8. 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.

9. 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. 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.

10. 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.

11. 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.

12. 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 their 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 their obligations or responsibilities under the Contract.

13. 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.

14. 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.

15. 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.

16. 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. Failure of the City to demand such verification of coverage with these insurance requirements or failure of the City to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the City to be equivalent.
2. Copies of all endorsements naming the City as additional insured, showing the policy number. The Contractor may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.
3. Any other amendatory endorsements to show the coverage required herein.
4. **A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.**

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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. Covenant Against Contingent Fees. The Contractor warrants that they have 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 they have 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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:

Tonka Ground Work
Lloyd Watson
1215 41st St
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: September **Agenda Item:** 6.a.
5, 2023

Agenda Item Title: Contract Modification: Lead and Copper Rule (LCR) Sampling Plan Support and Lead and Copper Rule Revision (LCRR) Gap Analysis #22-285-WTR-001

Staff Contact(s): TIM HOHMANN, BRIAN MCDANIEL

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

Item Summary: City staff seek Council consent to issue a contract modification to HDR Engineering, Inc. in the amount of \$87,230.00, increasing the total contract price to \$181,330.00, in order to prepare a treatment optimization report for corrosion control.

Background:

1. **Reason for Contract Change:** Through the Gap Analysis effort it has been identified that the City does not have documentation of treatment optimization for corrosion control. This translates to a heightened degree of uncertainty about how the Department of Health (DOH) will enforce LCRR requirements in the City. In a proactive effort, the City would like to complete a corrosion control study for DOH review and approval. The City has requested HDR Engineering, Inc. (HDR) to prepare this report.
2. **History:** The Lead and Copper Rule was published in 1991 by the Environmental Protection Agency and has since undergone a series of minor and short-term revisions, the last of which occurred in 2007. In January 2021, a comprehensive Lead and Copper Rule Revision was finalized. The new rule has requirements that will affect utilities in multiple ways, including new testing requirements, treatment requirements, service line identification/replacements, as well as public outreach/notification. The City has retained HDR to assist the City to conduct a Gap Analysis to assess the City's current LCR-related practices, identify City needs to achieve future LCRR compliance, and provide a prioritized implementation plan to achieve future compliance with LCRR schedule

requirements. Additionally, this scope of services includes optional tasks for a lead and copper compliance sampling plan support.

3. **Key Terms:**

- increase of \$87,230.00
- extended period of performance through 6/30/2024

4. **Competitive Bidding:** Per RCW 39.80 this engineering consultant was selected from the City's MRSC Architectural, Landscape Architectural, and Engineering Service Roster to provide a proposal for this scope of work, after which a price was negotiated.

Budget Impact:

Consultant	HDR Engineering, Inc.
Original Agreement Amount	\$94,100.0
Current Agreement Amount	\$94,100.0
Change Per This Modification	\$87,230.00
Total After Modification	\$181,330.00
Earmarked Funds	\$136,484.00
BARS #	401.730.534.10.41
Paid on Contract as of 8/28/23	\$45,197.84
Budget Amendment Required?	Yes
Revenue Source?	Cash reserves - bars revenue # 401.000.308.10.00
Start Date	Contract execution
End Date	6/30/2024

Previous Action: Contract [22-285-WTR-001](#) was approved at the [12/19/2023](#) Council meeting.

Recommended Motion: I move that City Council authorize the Mayor to sign a contract modification with HDR Engineering, Inc. under Contract 22-285-WTR-001, in the amount of \$87,230.00 increasing the total contract price to \$181,330.00.

Alternative Actions: Not approve the modification.

Attachments (listed in order presented):

1. 22-285-WTR-001 Mod 01



Date September 5, 2023
Page 1 of 1 Page

Contract Title WTP Lead and Copper Rule (LCR) Sampling Plan Support and LCRR Gap Analysis
Consultant HDR Engineering, Inc.

BACKGROUND

This modification is issued in accordance with Article 22, Changes/Additional Work. Through the Gap Analysis effort it has been identified that the City does not have documentation of treatment optimization for corrosion control. The City has requested HDR Engineering, Inc. (HDR) to prepare this report. Accordingly, the contract price is increased from \$94,100.00 by \$87,230.00 to \$181,330.00, and the following changes are incorporated under this contract:

ARTICLE 1. Scope Of Work. The following second paragraph is added:

“The work as described above is hereby amended per Modification 01 to include the work required to complete a corrosion control study for DOH review and approval. Work is detailed in Exhibit B, which is attached hereto and incorporated by reference.”

ARTICLE 3. Price and Payment Terms. The paragraph is revised to read:

“The services provided under this Agreement shall be on a time and materials basis not-to-exceed **One Hundred Eighty-One Thousand Three Hundred Thirty Dollars (\$181,330.00)**. The per task estimates are detailed in Exhibit A and Exhibit B.”

ARTICLE 4. Period of Performance. The paragraph is revised to read:

“The period of performance under this Agreement is from inception through June 30, 2024.”

All other terms of the contract remain unchanged.

CITY OF ANACORTES

HDR ENGINEERING, INC.

By _____
Matt Miller, Mayor

By _____

Date _____

Date _____

Original Agreement Amount	<u>\$94,100.00</u>	Original Contract Completion Date	<u>12/31/2023</u>
Current Agreement Amount	<u>\$94,100.00</u>	Current Contract Completion Date	<u>12/31/2023</u>
Change Per this Modification	<u>\$87,230.00</u>	Net Change	<u>182 Days</u>
Total After Modification	<u>\$181,330.00</u>	Contract Completion Date After Change	<u>6/30/2024</u>

AGREEMENT 22-285-WTR-001

EXHIBIT B

**City of Anacortes, WA
Lead and Copper Rule (LCR) Sampling Plan Support
and
Lead and Copper Rule Revisions (LCRR)
Gap Analysis**



**929 108th Avenue NE
Suite 1300
Bellevue, WA 98004-4361
(425) 450-6200**

Table of Contents

Background	1
Scope of Services	1
Task 100 Project Management.....	1
Objective	1
HDR Services	1
Client Responsibilities	2
Assumptions.....	2
Deliverables.....	2
Task 400.1 Initial Draft Report.....	2
Objective	2
HDR Services	2
City Responsibilities	2
Assumptions.....	2
HDR Deliverables.....	3
Task 400.2 Revised Draft Report	3
Objective	3
HDR Services	3
City Responsibilities	3
Assumptions.....	3
HDR Deliverables.....	3
Task 400.3 DOH Review.....	4
Objective	4
HDR Services	4
City Responsibilities	4
Assumptions.....	4
HDR Deliverables.....	4
Estimated Fee for Professional Services	4

EXHIBIT A

SCOPE OF SERVICES

Background

The Lead and Copper Rule (LCR) was published in 1991 by EPA and has since undergone a series of minor and short-term revisions, the last of which occurred in 2007. In January 2021, a comprehensive Lead and Copper Rule Revision (LCRR) was finalized. The new rule has requirements that will affect utilities in multiple ways, including new testing requirements, treatment requirements, service line identification/replacements, as well as public outreach/notification.

The City of Anacortes (City) has retained HDR to assist the City to conduct a Gap Analysis to assess the City's current LCR-related practices, identify City needs to achieve future LCRR compliance, and provide a prioritized implementation plan to achieve future compliance with LCRR schedule requirements. Additionally, this scope of services includes optional tasks for a lead and copper compliance sampling plan support.

Amendment No. 1

Through the Gap Analysis effort it has been identified that the City does not have documentation of treatment optimization for corrosion control. This translates to a heightened degree of uncertainty of how the Department of Health (DOH) will enforce LCRR requirements on the City. In a proactive effort the City would like to complete a corrosion control study for DOH review and approval. The City has requested HDR Engineering, Inc. (HDR) to prepare this report.

Scope of Services

Task 100 Project Management

Objective

Object of this task is not changed via this amendment

HDR Services

1. The following services will be added to this task as part of this amendment:
 - A. Update the Project Management Plan to reflect the added scope and deliverables (Project Guide) outlining the project scope, team organization, schedule, and communications information.
 - B. Additional coordination and management of the project team to support extended project duration
 - C. Additional progress reports and invoicing to support extended project duration.
 - D. Additional project management meetings to support extended project duration.

Client Responsibilities

1. Client responsibilities under this task are not changed by this amendment.

Assumptions

1. The project duration will be extended 6 months.
2. One project management meeting will be held every other month with 1 hour of project manager time will be required for each meeting preparation, attendance, follow-up, and notes.
3. Invoices will be HDR standard invoice format.
4. Expense backup will not be provided with invoices but will be available for review at HDR.

Deliverables

1. Monthly reports and invoices (one copy with invoice can be mailed or e-mailed PDF file)
2. Monthly project schedule and budget updates.
3. Project management meeting agenda and notes (e-mailed PDF files).

Task 400.1 Initial Draft Report

Objective

This task is to gather background data and prepare the initial draft report for City review.

HDR Services

1. Develop a prioritized data request outlining information desired from the City.
2. Review City-provided data and identify data gaps.
3. Conduct conference call to discuss data gaps and how to address them.
4. Prepare initial draft report and submit to the City for review.
5. Conduct a review meeting with the City and prepare meeting notes.

City Responsibilities

1. Provide available requested data.
2. City conducts water quality sampling per DOH requirements.
3. Review and provide comments, submitted as a consolidated review comment document
4. Participate in review meeting to discuss initial draft report.

Assumptions

1. Data request includes information on City's current water supply and distribution system configuration, operations/usage, and water quality results.
2. City has sufficient historical data from the plant and distribution system available in electronic form to support corrosion control study.

3. The initial draft report is 30 to 40 pages in length and will comply with the federal requirements of a corrosion control study as listed in 40 Code of Federal Regulations 141.82(c).
4. Review meeting with the City will be in-person and last two hours. Review meeting will include up to two HDR staff. The meeting has three hours budgeted for preparation, attendance, and follow up. HDR will prepare a meeting agenda distributed prior to the meeting and provide the City with meeting notes following the meeting.

HDR Deliverables

1. Data request memo in an email.
2. Initial draft report for City review(PDF format)
3. Updated initial draft report(PDF format).

Task 400.2 Revised Draft Report

Objective

Update Task 200 initial draft report with the information from Task 300 to prepare a final report for DOH submission.

HDR Services

1. Update Task 200 initial draft report.
2. Conduct a review meeting with the City and prepare meeting notes.
3. Prepare and submit final report to address City review comments.
4. Prepare DOH Project Approval Application form.

City Responsibilities

1. Review and provide comments to the initial draft report, submitted as a consolidated review comment document.
2. Participate in review meetings to discuss initial draft report.
3. Submit final report and Project Approval Application form to DOH.
4. Pay for DOH review fees.

Assumptions

1. The revised draft report is 35 to 45 pages in length, excluding appendices.
2. Review meeting with the City will be in-person and last two hours. The review meeting will include up to two HDR staff. The meeting has three hours budgeted for preparation, attendance, and follow up. HDR will prepare a meeting agenda distributed prior to the meeting and provide the City with meeting notes following the meeting.

HDR Deliverables

1. Revised draft report for City review(Word and PDF format)
2. Task 200 review meeting notes(PDF format)
3. Final report(PDF format)

Task 400.3 DOH Review

Objective

Coordinate with DOH and prepare final report addressing DOH comments.

HDR Services

1. Participate in virtual review meeting with DOH.
2. Receive and review DOH comments and discuss with City.
3. Address DOH comments in revised final report.

City Responsibilities

1. Participate in review meetings with DOH.
2. Participate in conference call to discuss DOH comments.
3. Review and provide comments, submitted as a consolidated review comments document.
4. Submit revised final report to DOH.
5. Pay for the DOH review fees.

Assumptions

1. The revised final report is 35 to 45 pages in length, excluding appendices.
2. Conference call with the City lasts one hour and will be virtual. The meeting has three hours budgeted for preparation, attendance, and follow up. HDR will send follow up meeting notes following the calls.

HDR Deliverables

1. Revised final report for City review (in Word and PDF format)
2. Final report (PDF format).

Estimated Fee for Professional Services

1. The estimated total contract amount to complete the professional services identified in this Scope of Services is offered on a **time-and-materials basis not-to-exceed \$87,230.00**. Following are estimated professional services costs for the tasks provided in this scope of services. The following table is provided only to show the City an approximate breakdown of estimated costs. Expenses will be billed at a 5% Markup

Task	Estimated Task Cost
Task 100 – Project Management	\$6,248
Task 400.1 – Initial Draft Report	\$42,106
Task 400.2 – Revised Draft Report	\$22,523
Task 400.3 – DOH Review	\$16,349
TOTAL	\$87,230.00



City Council Agenda Bill

Meeting Date: September **Agenda Item:** 6.b.
5, 2023

Agenda Item Title: Interlocal Agreement: North Cascades Regional Special Weapons and Tactics (SWAT) Team #23-246-IDS-001

Staff Contact(s): Bill Harris

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

Item Summary: City staff seek City Council consent to enter into an interlocal agreement with the Skagit County and the City of Oak Harbor to add the City of Anacortes as a member of the North Cascades Regional SWAT Team (NCRS Team).

Background: The NCRS Team has requested medical support for their missions. Integrating Anacortes Fire Department (AFD) medics into the NCRS Team with their mission to save lives is consistent with the mission of the AFD. These medics will receive specialized training and equipment that will allow them to operate unarmed in the "warm zone" during NCRS Team missions. In addition, this training will provide expertise to our medics in the skills and procedures needed to operate in the "Rescue Task Force" concept currently being developed between Anacortes Police Department and AFD.

Key Terms:

- Term is through 4/13/24 and auto renews for up to 2 additional periods of 5 years each, unless terminated sooner.
- Each jurisdiction is responsible for the equipment, supplies, and training of its participating NCRS Team members.

Budget Impact:

Previous Action: N/A

Recommended Motion: I move that City Council authorize the Mayor to execute the Interlocal Cooperation Agreement 23-246-IDS-001 between the City of Anacortes, Skagit County, and the City of Oak Harbor.

Alternative Actions: Not approve the interlocal.

Attachments (listed in order presented):

1. 23-246-IDS-001

ADDENDUM (#4): INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN SKAGIT COUNTY AND THE CITY OF OAK HARBOR FOR THE CREATION OF
THE NORTH CASCADES REGIONAL SPECIAL WEAPONS AND TACTICS TEAM TO
INCORPORATE THE CITY OF ANACORTES

WHEREAS the document, dated April 13, 2023, entitled "Interlocal Cooperative Agreement (ILA) between Skagit County and the City of Oak Harbor, for creation of the North Cascades Regional Special Weapons and Tactics (SWAT) Team" was executed by the participating jurisdictions for the purpose of establishing and maintaining a multi-jurisdictional SWAT Team to respond to high-risk criminal occurrences, and

WHEREAS, pursuant to Sections 2.1 and 12 of the Interlocal Cooperative Agreement, the future admission of a jurisdiction as a member of the SWAT Team may be accomplished by an addendum to the agreement, and

WHEREAS, the **City of Anacortes** has petitioned the Executive Board for membership and has received unanimous approval subject to approval of this Addendum;

NOW, THEREFORE, in consideration of the foregoing, THE PARTIES HERETO AGREE as follows:

Pursuant to the approval and execution of this Addendum, the **City of Anacortes** will be admitted as a member of the North Cascades Regional SWAT Team subject to the terms of the existing North Cascades Regional SWAT Team Interlocal Agreement entered into between Skagit County and the City of Oak Harbor in Skagit County Contract C20230148.

Except as modified hereby, all other terms and conditions of the North Cascades Regional SWAT Team Interlocal Agreement remain in full force and effect.

This Addendum shall be executed on behalf of the **City of Anacortes** and each participating jurisdiction by its authorized representative pursuant to an appropriate resolution or ordinance of the governing body of the **City of Anacortes** and each participating jurisdiction. This Addendum shall be deemed effective upon the last date of execution by the last authorized representative. This Addendum may be executed by counterparts and be valid as if each representative had signed the original document.

By signing below, the signor certifies that they have the authority to sign this Addendum on behalf of the **City of Anacortes**, and the **City of Anacortes** agrees to the terms of this Addendum.

CITY OF ANACORTES:

Mayor

Date _____

Mailing Address:
904 6th Street/PO Box 547
Anacortes, WA 98221

Matt Miller
Print Name of Signatory

CITY OF OAK HARBOR:

Robert Severns, Mayor

DATED this _____ day of _____, 2023.

Mailing Address:

(Street address required in addition to P.O. Box)

Confirm as to Recommendation:

Kevin Dresker, Chief of Police

Approved as to Form:

Hillary Evans, Oak Harbor City Attorney

Budget & Finance Director

DATED this _____ day of _____, 2023.

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

Ron Wesen, Chair

Lisa Janicki, Commissioner

Attest:

Peter Browning, Commissioner

Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

COUNTY Administrator

Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN SKAGIT COUNTY AND THE CITY OF OAK HARBOR FOR THE CREATION OF
THE NORTH CASCADES REGIONAL SPECIAL WEAPONS AND TACTICS TEAM

THIS Agreement is made and entered into upon the date of the signature of the last of the parties described below by and between the City of Oak Harbor, a Washington municipal corporation, ("City") and Skagit County, Washington ("County") pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act.

1. **PURPOSE/RECITALS:**

- 1.1. The COUNTY and CITY are public agencies as defined by chapter 39.34 RCW and chapter 10.93 RCW, and are authorized to entered into inter-local agreements to provide for joint or cooperative actions to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and,
- 1.2. The COUNTY and the CITY recognize that incidents of a serious criminal nature do occur which require a specially trained and equipped law enforcement response to effectively respond to the situation. These incidents create demand on both the COUNTY and the CITY respective to each party's resources. The parties believe these resources are economically served by forming a joint Special Weapons and Tactics Team (hereinafter "SWAT"); and,
- 1.3. Each jurisdiction currently maintains their own SWAT team, however both parties intend through this Agreement to share their respective SWAT resources to form a single regional SWAT Team. The regional SWAT team (hereinafter "North Cascades Regional SWAT Team "NCRS") shall be specially trained and equipped to respond jointly to and resolve high risk criminal activity in both the CITY and the COUNTY; and,
- 1.4. The COUNTY and the CITY intend that a joint team facilitates increased operational efficiencies and economies of scale by providing a mechanism for the sharing of material, personnel, knowledge, equipment, and training, all as more fully described by, and pursuant to the terms and conditions contained in, this Agreement; and,
- 1.5. The ability to safely control, contain, and resolve high risk criminal incidents that require the application of specialized equipment, training, and tactics, including but not limited to barricaded gunman, hostage rescue, high-risk apprehension, high-risk warrant service, high-risk security operations, terrorism response, special assignments and other incidents, has strained the resources of the CITY and the COUNTY. Law enforcement efforts directed at these high-risk criminal incidents have, for the most part, been conducted by law enforcement agencies working independently. A multi-jurisdictional effort to respond to and resolve specific high risk criminal incidents is anticipated to result in more effective pooling of personnel, improved utilization of COUNTY and CITY funds, reduced duplication of equipment, improved training, development of specialized expertise, and increased utilization/application of a combined special response team. This cooperation results in improved services for the citizens of all participating jurisdictions, increased safety for team members and the

community, and improved cost effectiveness. Therefore, the COUNTY and the CITY hereby establish a North Cascades Regional SWAT Team to effectively address the concerns described above.

- 1.6. NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the COUNTY and the CITY agree as follows:

2. **FORMATION:**

- 2.1. There is hereby created a multi-jurisdictional Team to be hereafter known as the "North Cascades Regional Special Weapons and Tactics Team" ("NCRS" or "Team"), the members of which shall be the Skagit County and the City of Oak Harbor. The future admission or elimination of a jurisdiction as a member of the NCRS Team may be accomplished by an addendum to this agreement as more fully described in Section 12 of this Agreement

3. **TERM OF AGREEMENT:**

- 3.1. **Initial Term:** The initial term of this Agreement shall be for one (1) year (the "Initial Term"), from the effective date of this Agreement. As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it has (i) been duly executed by both parties, and (ii) either filed with the COUNTY Auditor or posted on the COUNTY's Interlocal Agreements website. Both parties' obligations under this Agreement are contingent upon local legislative appropriation of the necessary funds for this specific purpose in accordance with applicable law.
- 3.2. **Extensions:** The term of this Agreement may be extended for up to two (2) additional periods of five (5) years each (respectively, the "First Extended Term" and the "Second Extended Term"). Extension of the Agreement shall be automatic unless one of the parties provides written notice of termination as more fully described in Section 11 of this Agreement. Additional extensions are permitted by written authorization of both parties.

4. **ADMINISTRATIVE OVERSIGHT**

Executive Board. The Skagit County Sheriff and Oak Harbor Police Chief shall comprise the Executive Board and have ultimate decision authority over NCRS and will approve changes to standard operating procedures, and appointment of personnel to NCRS. They shall also evaluate the performance of the team and prepare the annual NCRS budget to the CITY and the COUNTY, if necessary. Nothing in this designation limits the CITY or COUNTY from independently approving or disapproving any proposed budget or other obligation not resolved in this Agreement. Additional Executive Board members (who are command level officers – Lieutenants or above) may be appointed by majority approval of the current Executive Board members. The addition of other member agencies to the NCRS team, through an addendum process as outlined in this document, will not change the composition of the Executive Board. Any such change will require a process specifically outlined in this section.

With the establishment of the NCRS, new Standard Operating Procedures (SOP) will be adopted by involved agencies. A document outlining the SOP's will be adopted by the Executive Board. Contents of the SOP, which outline administrative and procedural operations for the NCRS, may be modified with the approval of the Executive Board. Existing policies, regulations, and operational procedures shall be in effect without action of the Executive Board and until such time as they are subsequently altered by the Board. The NCRS written policies, regulations, and operational procedures shall apply to all SWAT operations. Thus, to the extent that the written policies, regulations, and operational procedures of the NCRS conflict with the policies, regulations, and operational procedures of the individual jurisdictions, the NCRS written policies, regulations, and procedures shall prevail.

- 4.1. **Legal Advisor.** The Board may, at its discretion, appoint one (1) or more legal advisors to advise the Board on legal issues affecting the NCRS Team. The legal advisor(s) shall, when appropriate or when requested by the Board, consult with the legal representatives of all participating jurisdictions before rendering legal advice.

5. **RESPONSIBILITIES/STRUCTURE:**

- 5.1. **STRUCTURE:** The goal of the North Cascades Regional SWAT Team is to be comprised by a minimum of nineteen (19) tactical operators and support personnel, who are currently employed fulltime sworn commissioned peace officers. Each agency agrees to provide a minimum of one (1) member from each jurisdiction signed to this interlocal Agreement.

The following National Tactical Officer Association Team Titles and Metrics should be used as guidance for NCRS tactical operation considerations.

SWAT Tier 1 (26 Members)
Tactical Commander (1)
Team Leader (3)
Operators (22) (w/ 4 operators designated as snipers)

SWAT Tier 2 (19 Members)
Tactical Commander (1)
Team Leader (2)
Operators (16) (w/ 4 operators designated as snipers)

Tactical Response Team (15 Members)
Tactical Commander (1)
Team Leaders (2)
Operators (12)

- 5.2. The NCRS Team members shall not include peripheral operators such as vehicle operators, K-9 officers, Public Information Officers, investigators, or intelligence officers that may or may not respond to a SWAT call in a support function
- 5.3. **Tactical Commander:** The Executive Board shall appoint a Tactical Commander (also known as Team Commander), a commissioned peace officer of command rank Lieutenant or higher with previous experience in tactical operations. Selection shall be

from one of the participating law enforcement agencies, for a term of two years, which may be extended at the direction of the Executive Board. Selection criteria shall include a consideration of training, experience, skills, and abilities.

The Tactical Commander shall operate under the direction of the Executive Board and shall be responsible for presenting rules, procedures, regulations, and policy revisions for Executive Board approval. The Tactical Commander shall inform the Executive Board on all matters relating to the function, expenditures, accomplishments, training, SWAT call responses, and any other matter as requested by the Executive Board.

The Tactical Commander shall present a report annually to the Executive Board that outlines the prior year's training, missions, personnel changes, major equipment acquisitions and anticipated activities. The Tactical Commander may be removed by action of the Executive Board at any time and for any reason, with or without cause.

- 5.4. **Assistant Commander(s):** The Executive Board may appoint up to two (2) Assistant Commander(s), who are commissioned peace officer of command rank, Lieutenant or higher from one of the participating law enforcement agencies. The term of appointment for the position of Assistant Commander will be for two years and may be extended at the direction of the Executive Board. Selection criteria shall include a consideration of training, experience, skills, and abilities.

Assistant Commander shall operate under the direction of the Tactical Commander and provide support as directed with tactical operations, training, and administrative functions of the NCRS Team. The Assistant Commander may be removed by action of the Executive Board at any time and for any reason, with or without cause.

- 5.5. **Team Selection.** The Team make-up and personnel assignments are delineated in the SWAT Standard Operating Procedures. All parties agree that the personnel selection processes, training standards, and participation requirements will minimally meet the Standard Operating Procedure. Nothing in this agreement shall prohibit either agency from requiring additional agency specific qualification standards and/or training requirements beyond that required in the Standard Operating Procedure.

- 5.6. The personnel assigned to the NCRS Team shall be considered employees of the contributing jurisdiction. The contributing jurisdiction shall be solely and exclusively responsible for the compensation and benefits for the personnel it contributes to the NCRS. All rights, duties, and obligations of the employer and the employee shall remain with the contributing jurisdiction. Each jurisdiction shall be responsible for ensuring compliance with all applicable laws with regard to employees and with provisions of any applicable collective bargaining agreements and civil service rules and regulations. Any personnel assigned to NCRS may be suspended by action of the Team Commander after consultation with other Team Commanders and Team Leader(s). All recommendations to remove team members from NCRS shall be forwarded to the Executive Board for final review and decision. In the case of any split decision or "tie" by the Executive Board, the Team Commander shall cast a vote. NCRS Team Members may be removed by action of the Executive Board at any time and for any reason, with or without cause. Additional steps may be outlined in the NCRS SOP.

- 5.7. Nothing in this section shall prohibit or otherwise prevent either agency from sending designated supervisory personnel to any deployment for the purpose of monitoring and/or evaluating their agency's personnel, training, and or equipment. During a deployment operational command will follow the SOP developed for the SWAT Team.

6. ACTIVATION, COMMAND AND CONTROL

- 6.1. During field activation of the NCRS Team, an Agency Incident Command, NCRS Tactical Commander, and NCRS Team Leader(s) will be designated. The duties and procedures to be utilized by the Incident Commander, the NCRS Team Tactical Commander, and NCRS Team Leader(s) shall be set forth in the standard operating procedures approved by the Executive Board. The standard operating procedures approved by the board may designate other personnel to be utilized during an incident.
- 6.2. Any member jurisdiction may request activation of the NCRS. Member agencies shall have an authorized Officer authorized by the Agency Head, usually a command level Officer, contact the NCRS Team Commander to request the activation. It is the intent of this agreement that the NCRS will be available to the requesting member agency. However, since each situation is unique and varying factors must be taken into consideration, additional steps in the process for activation, including final authorization and remediation of any disagreements, will be outlined in the SOP, as authorized by the Executive Board. The SOP will also outline procedures for NCRS requests and activations for non-member agencies.

7. EQUIPMENT, TRAINING, AND BUDGET

- 7.1. Each participating jurisdiction shall acquire the equipment of its participating NCRS Team members. Each participating jurisdiction shall provide sufficient funds to update, replace, repair, and maintain the equipment and supplies utilized by its participating NCRS Team members. Each participating jurisdiction shall provide sufficient funds to provide for training of its participating NCRS Team members.

The equipment, supplies, and training provided by each jurisdiction to its personnel participating in the NCRS Team shall, unless otherwise determined by the Board, be equal to those provided by the other participating jurisdictions.

Each member jurisdiction shall maintain an independent budget system to account for funds allocated and expended by its participating NCRS Team members.

- 7.2. The Board must approve any joint capital expenditure for NCRS Team equipment.

8. DISTRIBUTION OF ASSETS UPON TERMINATION

- 8.1. Termination shall be in accordance with those procedures set forth in prior sections. Each participating jurisdiction shall retain sole ownership of equipment purchased and provided to its participating NCRS Team members.

Except as expressly provided to the contrary in this Agreement. Any real or personal property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

Any assets acquired with joint funds of the NCRS Team shall be equally divided among the participating jurisdictions at the asset's fair market value upon termination. The value of the assets of the NCRS Team shall be determined by using commonly accepted methods of valuation. If two (2) or more participating jurisdictions desire an asset, the final decision shall be made by arbitration (described below). Any property not claimed shall be declared surplus by the Executive Board and disposed of pursuant to state law for the disposition of surplus property. The proceeds from the sale or disposition of any NCRS Team property, after payment of any and all costs of sale or debts of the agency, shall be equally distributed to those jurisdictions participating in the NCRS Team at the time of dissolution in proportion to the jurisdiction's percentage participation in the NCRS Team as of the date of dissolution.

In the event that one or more jurisdictions terminate their participation in the NCRS Team, but the NCRS Team continues to exist, the jurisdiction terminating participation shall be deemed to have waived any right or title to any property owned by the NCRS Team or to share in the proceeds at the time of dissolution.

- 8.2. Arbitration pursuant to this section shall occur as follows: The jurisdictions interested in an asset shall select one (1) person (Arbitrator) to determine which agency will receive the property. If the jurisdictions cannot agree to an Arbitrator, the chiefs of the jurisdictions participating in the NCRS Team upon dissolution shall meet to determine who the Arbitrator will be. The Arbitrator may be any person not employed by the jurisdictions that desire the property.

During a meeting with the Arbitrator, each jurisdiction interested in the property shall be permitted to make an oral and/or written presentation to the Arbitrator in support of its position.

At the conclusion of the presentation, the Arbitrator shall determine which jurisdiction is to receive the property. The decision of the Arbitrator shall be final and shall not be the subject of appeal or review.

9. **INDEMNIFICATION:** Each party to this Agreement shall indemnify, defend and hold every other party and its agents, employees and contractors harmless from and against any and all costs, liabilities, suits, losses, damages, claims, expenses, penalties or charges, including, without limitation, reasonable attorneys' fees and disbursements, that the other party may incur or pay out by reason of: (i) any accidents, damages or injuries to persons or property occurring during the term of this Agreement, but only to the extent the same are caused by any negligent or wrongful act of the indemnifying party; or (ii) any breach or Default (as such term is defined in Section 23 below) of the indemnifying party under

this Agreement. The provisions of this Section 9 shall survive the expiration or earlier termination of this Agreement. It is further provided that no liability shall attach to the COUNTY or City by reason of entering this contract except as expressly provided herein.

10. **INSURANCE:** Each party shall maintain its own insurance and/or self-insurance for its obligations from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying part to the indemnified party(s). Each Party shall provide the other with a certificate of insurance or letter of self-insurance annually as the case may be.

Each party shall provide or purchase workers' compensation insurance coverage to meet the Washington State Industrial Insurance regulations.

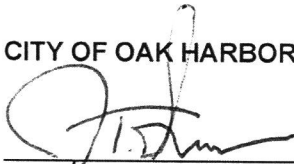
11. **TERMINATION:** Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
12. **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:** The Agreement may be changed, modified, amended, or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
13. **SEVERABILITY:** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement 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.
14. **ENTIRE AGREEMENT:** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
15. **GOVERNING LAW AND VENUE:** This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Skagit COUNTY.
16. **INTERPRETATION:** This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

17. **NO WAIVER:** A party's forbearance or delay in exercising any right or remedy with respect to a Default by the other party under this Agreement shall not constitute a waiver of the Default at issue. Nor shall a waiver by either party of any Default constitute a waiver of any other Default or any similar future Default.
18. **ASSIGNMENT:** This Agreement shall not be assigned, either in whole or in part, by either party without the express written consent of the other party, which may be granted or withheld in such party's sole discretion. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a Default under this Agreement.
19. **WARRANTY OF AUTHORITY:** Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign this Agreement.
20. **NO JOINT VENTURE:** Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties other than to the extent described in this Agreement.
21. **EXECUTION IN COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.
22. **COMPLIANCE WITH LAWS:** The Parties shall always exercise their rights and perform their respective obligations under this Agreement in full compliance with all applicable laws, ordinances, rules and regulations of any public authority having jurisdiction.
23. **NOTIFICATION OF CLAIMS AND LAWSUITS:** If a lawsuit is brought against the COUNTY, the CITY, its officers, or employees for actions arising out of their conduct in support of SWAT Team operations, it shall be the duty of either the COUNTY or the CITY to notify the other party that said claims or lawsuit has been initiated
24. **DEFAULT AND REMEDIES**
 - 24.1. **DEFAULT** If any party to this Agreement fails to perform any act or obligation required to be performed by it hereunder, the party or parties to whom such performance was due shall deliver written notice of such failure to the non-performing party. The non-performing party shall have thirty (30) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default ("Default") under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said thirty (30) day period, then the non-performing party shall not be in Default if it commences cure within said thirty (30) day period and thereafter diligently pursues cure to completion.

24.2. **REMEDIES: ATTORNEYS' FEES** In the event of a party's Default under this Agreement, then after giving notice and an opportunity to cure pursuant to Section 23 above, the party or parties to whom the performance was due shall have the right to exercise any or all rights and remedies available to it at law or in equity. In any action between any of the parties hereto seeking the enforcement of any of the terms or provisions of this Agreement, the prevailing party or parties in such action shall be awarded, in addition to damages, injunctive or other relief, their reasonable costs and expenses, including, without limitation, reasonable attorneys' fees.

24.3. **RECORDS:** All records possessed related to the performance of this Agreement shall be available for full inspection and copying by any participating jurisdiction. Records maintenance and retention shall be in accordance with the Standard Operating Procedures.

CITY OF OAK HARBOR:

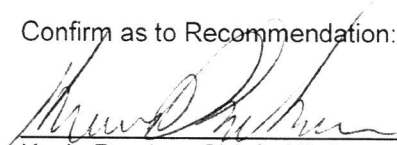

Robert Severns, Mayor

DATED this 3rd day of April, 2023.

Mailing Address:

(Street address required in addition to P.O. Box)

Confirm as to Recommendation:


Kevin Dresker, Chief of Police

Approved as to Form:



Hillary Evans, Oak Harbor City Attorney

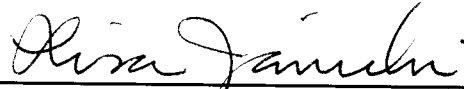
NORTH CASCADES REGIONAL SWAT
INTERLOCAL AGREEMENT

Page 9 of 10 10-21
04-13-23

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON:

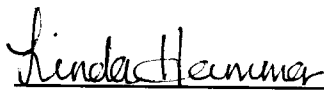


Ron Wesen, Chair

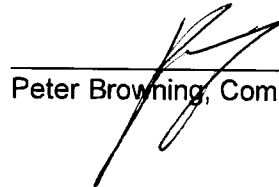


Lisa Janicki, Commissioner

Attest:



Clerk of the Board



Peter Browning, Commissioner

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:



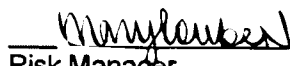
Department Head

Approved as to form:



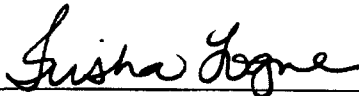
Civil Deputy Prosecuting Attorney
Erik Pedersen, Reviewed 3/28/2023

Approved as to indemnification:



Risk Manager

Approved as to budget:



Budget & Finance Director