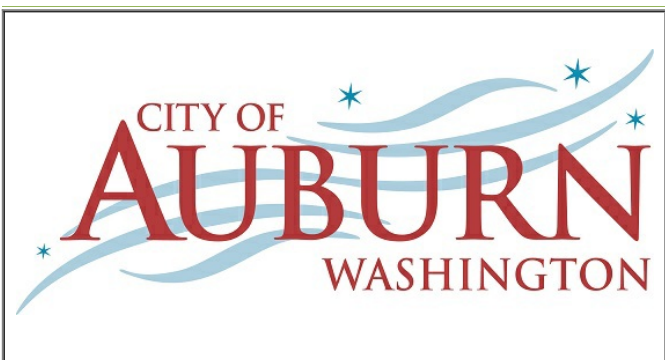


	City Council Meeting May 16, 2022 - 7:00 PM City Hall Council Chambers and Virtual AGENDA Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
---	--

I. CALL TO ORDER

II. PUBLIC PARTICIPATION

1. Public Participation

The Auburn City Council Meeting scheduled for Monday, May 16, 2022 at 7:00 p.m. will be held in person and virtually.

Virtual Participation Link:

To view the meeting virtually please click the below link, or call into the meeting at the phone number listed below. The link to the Virtual Meeting is:

<https://www.youtube.com/user/watchauburn/live/?nomobile=1>

To listen to the meeting by phone or Zoom, please call the below number or click the link:

Telephone: 253 215 8782

Toll Free: 888 475 4499

Zoom: <https://us06web.zoom.us/j/85008594302>

A. Pledge of Allegiance

B. Roll Call

III. ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS

IV. AGENDA MODIFICATIONS

V. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

A. Public Hearings - (No public hearing is scheduled for this evening.)

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue.

1. The public can participate in-person or submit written comments in advance.

The public can provide comments in-person or submit written comments in advance of the scheduled meeting. Participants can submit written comments via mail, fax, or email. All written comments must be received prior to 5:00 p.m. on the day of the scheduled meeting and must be 350 words or less.

Please mail written comments to:
City of Auburn
Attn: Shawn Campbell, City Clerk
25 W Main St
Auburn, WA 98001

Please fax written comments to:
Attn: Shawn Campbell, City Clerk
Fax number: 253-804-3116

Email written comments to:
publiccomment@auburnwa.gov

If an individual requires an accommodation to allow for remote oral comment because of a difficulty attending a meeting of the governing body, the City requests notice of the need for accommodation by 5:00 p.m. on the day of the scheduled meeting. Participants can request an accommodation to be able to provide remote oral comment by contacting the City Clerk's Office in person, by phone (253) 931-3039, or email to publiccomment@auburnwa.gov

C. Correspondence - (There is no correspondence for Council review.)

VI. COUNCIL AD HOC COMMITTEE REPORTS

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendation to the City Council, if any.

1. Finance Ad Hoc Committee (Chair Baggett)

VII. CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

- A. Minutes of the April 25, 2022 and May 9, 2022 Study Session Meetings
- B. Minutes of the May 2, 2022 Regular City Council Meeting
- C. Claims Vouchers (Thomas)
Claims voucher list dated May 16, 2022 which includes voucher numbers 467797 through 468006, in the amount of \$6,761,334.80 and four wire transfers in the amount of \$698,094.41
- D. Payroll Voucher (Thomas)
Payroll check numbers 539362 through 539369 in the amount of \$75,744.10,

electronic deposit transmissions in the amount of \$2,415,764.88 for a grand total of \$2,491,508.98 for the period covering April 28, 2022 to May 11, 2022

- E. Setting date for Public Hearing for Ordinance No. 6862 (Gaub)
City Council to set date for Public Hearing for Ordinance 6862 Inland Washington, LLC Street Payback Agreement #PBK19-0001
- F. Setting date for Public Hearing for Ordinance No. 6863 (Gaub)
City Council to set date for Public Hearing for Ordinance 6863 Inland Washington, LLC Street Payback Agreement #PBK19-0002

(RECOMMENDED ACTION: Move to approve the Consent Agenda.)

VIII. UNFINISHED BUSINESS

IX. NEW BUSINESS

X. ORDINANCES

- A. Ordinance No. 6858 (Gaub)
An Ordinance granting to MCI Communications Services LLC, a Delaware Limited Liability Company, a franchise for wireline telecommunications

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6858.)

- B. Ordinance No. 6864 (Gaub)
An Ordinance repealing Ordinances 6767, 6777, 6788, and 6802 that provided for a temporary waiver of late fees for airport and utility accounts, in light of a public health emergency

(RECOMMENDED ACTION: Move to adopt Ordinance No. 6864.)

XI. RESOLUTIONS

- A. Resolution No. 5665 (Backus)
A Resolution authorizing the Mayor to execute an Interlocal Datashare Agreement with the Department of Social and Health Services.

(RECOMMENDED ACTION: Move to adopt Resolution No. 5665.)

XII. MAYOR AND COUNCILMEMBER REPORTS

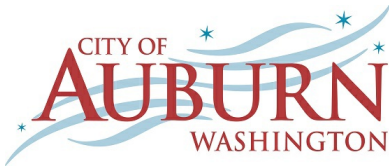
At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

- A. **From the Council**
- B. **From the Mayor**

XIII. ADJOURNMENT

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review

at the City Clerk's Office.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the April 25, 2022 and May 9, 2022 Study Session Meetings

Date:

May 10, 2022

Department:

City Council

Attachments:

[Minutes of the April 25, 2022 Study Session](#)

[Meeting](#)

[Minutes of the May 9, 2022 Study Session](#)

[Meeting](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

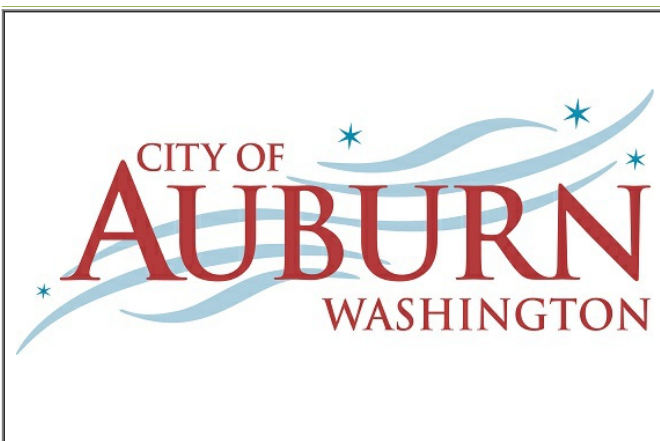
Revised Budget: \$0

Administrative Recommendation:**Background for Motion:****Background Summary:****Reviewed by Council Committees:****Councilmember:**

Meeting Date: May 16, 2022

Staff:

Item Number: CA.A

	City Council Study Session Finance, Technology and Economic Development Special Focus Area April 25, 2022 - 5:30 PM City Hall Council Chambers and Virtual MINUTES Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
---	---

I. CALL TO ORDER

Deputy Mayor Jeyaraj called the meeting to order at 5:30 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn.

II. PUBLIC PARTICIPATION

A. Public Participation

The City Council Meeting was held in person and virtually.

B. Roll Call

Councilmembers present: Deputy Mayor James Jeyaraj, Bob Baggett, Kate Baldwin, Larry Brown, Robyn Mulenga, Chris Stearns and Yolanda Trout-Manuel.

Department Directors and staff members present include: City Attorney Kendra Comeau, Chief of Police Mark Caillier, Director of Parks, Arts and Recreation Daryl Faber, Director of Public Works Ingrid Gaub, Director of Administration Dana Hinman, DEI Program Manager Brenda Goodson-Moore, Director of Human Resources & Risk Management Candis Martinson, Director of Finance Jamie Thomas, Utility Billing Services Manager Joan Nelson, Development Services Manager Jason Krum, Business Systems Analyst Chrissy Malave, Director of Innovation and Technology David Travis, Right-of-Way Specialist Amber Olds, Economic Development Manager Jenn Francis and Deputy City Clerk Hannah Scholl.

III. ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

A. Waste Management 2021 Annual Report (Thomas) (20 Minutes)

Manager Nelson and Waste Management Public Sector Manager Laura Moser provided Council with the 2021 Annual Waste Management Report including events, community sponsorships and memberships

reducing contamination in residential recycling, and the implementation of the 2021 contract.

Council discussed where to dispose of shredded paper, on truck camera's, compressed natural gas trucks, bulk pickup service and union contracts.

IV. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Presentation on King County Veterans and Human Services Programs at the Auburn Senior Center (Faber) (20 Minutes)

Director Faber introduced Manager Lozier and Supervisor Hurley. They provided Council with a presentation on South King County Senior Centers and Resources including Veterans, Seniors and Human Services Levy, VSHSL funding, Senior Center Hubs, Resource Navigation Program, community outreach, site visits, support groups and referrals.

Council discussed resources for Ukrainian Refugees, housing assistance, clients within the boundary area, homelessness, vouchers, qualifications, mental health assessments, and inpatient care.

Deputy Mayor Jeyaraj recessed the meeting for 5 minutes at 6:48 p.m. He reconvened the meeting at 6:52 p.m.

B. Inclusive Auburn Update (Backus) (30 minutes)

Manager Goodson-Moore, Patricia Davis and Linda Poralis provided Council with an Inclusive Auburn Update including project management, program structure, equity audit and policy review, program structure, advisory team, expectations, Racial Equity Toolkit, and final tasks and reports.

Council discussed the Racial Equity Toolkit process, budgeting decisions, Police Department training, policy reviews, survey results, recommendations, tracking equity, frequency of meetings and trainings and equity dashboard.

C. Preservation Funding Ad Hoc Committee Report and Proposed Strategy (Gaub/Thomas) (20 Minutes)

Director Gaub and Director Thomas provided Council with an update on the Pavement Preservation Funding Ad Hoc Committee including arterial and collector streets and local streets funds, purpose of Ad Hoc Committee, funding options, funding strategy, potential costs, City utility tax comparison, and next steps.

Council discussed car tab prices, condition of roads, and funding.

D. Ordinance No. 6858 (Gaub) (5 Minutes)

Director Gaub introduced Specialist Olds who provided Council with an overview of Ordinance No. 6858 related to a Franchise Agreement with MCI Communications Services LLC.

Council discussed the telecommunications service companies.

V. FINANCE, TECHNOLOGY AND ECONOMIC DEVELOPMENT DISCUSSION ITEMS

A. Economic Development Partnership (Tate) (20 Minutes)

Economic Development Manager will present information about the partnerships with the Downtown Auburn Cooperative, the Auburn Area Connect and the Business Improvement Area Committee. This is the second of a five-part series from the Economic Development Division

Chair Baggett chaired this portion of the meeting.

Manager Krum introduced Manager Francis, Downtown Auburn Cooperative Executive Director Cheryl Rakes, Small Business Development Center (SBDC) Advisor Taryn Hornby and Auburn Area Chamber of Commerce President Kacie Bray.

Manager Francis provided Council with an update on Economic Development Partnerships including the Business Improvement Area Committee (BIA), downtown area cleanup, Sign Grant Program, upcoming BIA projects, and the importance of partnerships.

Ms. Rakes provided Council with a presentation on the Downtown Auburn Cooperative including the purpose, relation to the BIA, upcoming events, funding, and connections with the community.

Ms. Hornby provided Council with a presentation on the SBDC including locations, program history, audits, their mission, advising services, training services, client demographics, and economic impacts.

Ms. Bray provided Council with a presentation on Auburn Area Connect including economic development, education and workforce, business advocacy, business retention and recruitment, community outreach, promotion of the BIA, and connection events.

Council discussed live music events, volunteer qualifications, list of storefronts, location of SBDC, and the new location of Chamber of Commerce.

VI. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 9:03 p.m.

APPROVED this 16th day of May, 2022.

JAMES JEYARAJ, DEPUTY MAYOR

Hannah Scholl, Deputy City Clerk

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.

	City Council Study Session PWCD SFA May 9, 2022 - 5:30 PM City Hall Council Chambers and Virtual MINUTES Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
---	---

I. CALL TO ORDER

Deputy Mayor Jeyaraj called the meeting to order at 5:30 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street in Auburn.

II. PUBLIC PARTICIPATION

A. Public Participation

The Auburn City Council Study Session Meeting was held person and virtually.

B. Roll Call

Councilmembers present: Deputy Mayor James Jeyaraj, Bob Baggett, Larry Brown, Robyn Mulenga, Chris Stearns and Yolanda Trout-Manuel.
Councilmember Baldwin arrived at 5:34 pm

Department directors and staff members present include: City Attorney Kendra Comeau, Chief of Police Mark Caillier, Director of Public Works Ingrid Gaub, Community Development Director Jeff Tate, Community Services Manager Joy Scott, Senior Traffic Engineer James Webb, Assistant Director of Engineering Services/City Engineer Jacob Sweeting, Director of Innovation and Technology David Travis, Business Systems Analyst Chrissy Malave, and City Clerk Shawn Campbell.

III. ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS

There were no announcements, reports or presentations.

IV. AGENDA ITEMS FOR COUNCIL DISCUSSION

A. Community Development Block Grant 2021 CAPER (Tate) (20 Minutes)

An overview of the 2021 City of Auburn CDBG Consolidated Annual Performance and Evaluation Report, including CDBG and CDBG-CV funds spent and progress made toward Annual Action Plan service goals

Manager Scott provided Council with a presentation on the Community

Development Block Grant (CDGB) for 2021. She reviewed the differences between the general funds, CDBG Funds and CDBG-CV Funds, the Consolidated Annual Performance and Evaluation Reports (CAPER) requirements, CDBG Administrative Requirements, examples of eligible activities for CDBG Funds, examples of eligible activities for CDBG-CV Funds, what CDBG Funds supported in 2021, what CDBG-CV Funds supported in 2021, people who were served by CDBG Funds, income level of residents served, race and ethnicity of residents served, facts about the residents type of repair by the housing repair program.

Council discussed the demographic breakdown of the residents served and the demographic makeup of the Community, the meals provided during COVID, job training and job placement programs, and CDBG-CV and CDGB fund carryover.

V. PUBLIC WORKS AND COMMUNITY DEVELOPMENT DISCUSSION ITEMS

A. Ordinance No. 6864 (Gaub) (10 Minutes)

An Ordinance repealing Ordinances 6767, 6777, 6788, and 6802 that provided for a temporary waiver of late fees for airport and utility accounts in light of a public health emergency

Councilmember Stearns Chaired this portion of the meeting.

Director Gaub explained the City passed legislation to waive late fees for bills due at the Auburn Municipal Airport during COVID. She described the purpose of rescinding the ordinances at this time and when the City will begin assessing late fees again.

B. 2023-2028 Transportation Improvement Program Annual Update and 2023 Transportation Impact Fee Update (Gaub) (20 Minutes)

Senior Traffic Engineer James Webb provide Council with the 2023-2028 Transportation Improvement Program (TIP). He provided the updates to the TIP, grant programs added to the TIP in 2022, other projects that have been added, and the proposed 2023 Traffic Impact Fee increase.

Council discussed the Per-Trip Fee, sidewalks on Riverwalk, other impact fees, correlating projects, the A Street Loop project, and the ADA sidewalk project.

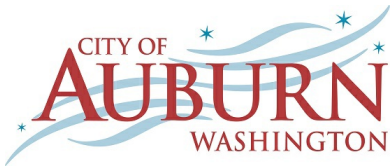
VI. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 6:25 p.m.

APPROVED this 16th day of May 2022.

JAMES JEYARAJ, DEPUTY MAYOR Shawn Campbell, City Clerk

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the May 2, 2022 Regular City Council Meeting

Date:

May 10, 2022

Department:

City Council

Attachments:

[Minutes of the May 2, 2022 Regular City Council Meeting](#)

Budget Impact:

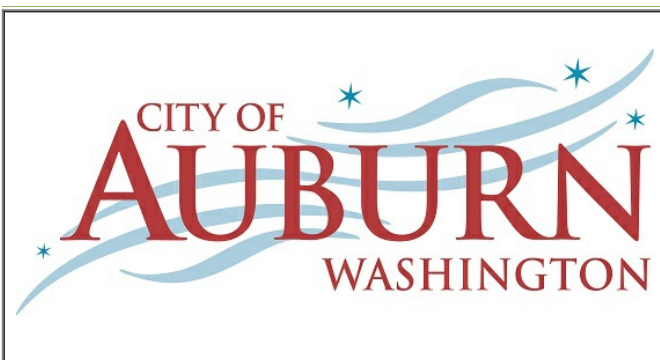
Current Budget: \$0
Proposed Revision: \$0
Revised Budget: \$0

Administrative Recommendation:**Background for Motion:****Background Summary:****Reviewed by Council Committees:****Councilmember:**

Meeting Date: May 16, 2022

Staff:

Item Number: CA.B

	City Council Meeting May 2, 2022 - 7:00 PM City Hall Council Chambers and Virtual MINUTES Watch the meeting LIVE! Watch the meeting video Meeting videos are not available until 72 hours after the meeting has concluded.
---	--

I. **CALL TO ORDER**

II. **PUBLIC PARTICIPATION**

1. **Public Participation**

The City Council Meeting was held in person and virtually.

A. **Pledge of Allegiance**

Mayor Nancy Backus called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn City Hall, 25 West Main Street, and led those in attendance in the Pledge of Allegiance.

B. **Roll Call**

Councilmembers present: Deputy Mayor Jeyaraj, Bob Baggett, Kate Baldwin, Larry Brown, Robyn Mulenga, Chris Stearns, and Yolanda Trout-Manuel.

Mayor Backus, and the following Department Directors and staff members attended the meeting: City Attorney Kendra Comeau, Police Chief Mark Caillier, Innovation and Technical Support Specialist Chrissy Malave, Director of Innovation and Technology David Travis, Director of Public Works Ingrid Gaub, Director of Parks, Arts, and Recreation Daryl Faber, Director of Finance Jamie Thomas, and City Clerk Shawn Campbell.

III. **ANNOUNCEMENTS, PROCLAMATIONS, AND PRESENTATIONS**

A. **Mayor Backus made a Land acknowledgment to the Muckleshoot Indian Tribe**

B. **Goodwill Ambassadors – Miss Auburn Scholarship Program**

Mayor Backus read and proclaimed Carrie Everett, Miss Auburn 2022 and Alexis Douglas, Miss Auburn's Outstanding Teen 2022, as Goodwill Ambassadors in the City of Auburn.

Ms. Douglas and Ms. Everett thanked the Mayor and Council for their

support.

C. Proclamation - Mental Health Awareness Month

Mayor Backus to proclaim May 2022 as "Mental Health Awareness Month" in the City of Auburn

Mayor Backus read and proclaimed May as Mental Health Awareness Month in the City of Auburn.

D. Proclamation - National Peace Officers Memorial Day

Mayor Backus to proclaim May 15, 2022 as "National Peace Officers Memorial Day" in the City of Auburn

Mayor Backus read and proclaimed May 11-17 as National Police Week and May 15, 2022 as National Peace Officers Memorial Day in the City of Auburn.

E. Proclamation - Affordable Housing Week

Mayor Backus to proclaim May 8-14, 2022 as "Affordable Housing Week" in the City of Auburn

Mayor Backus read and proclaimed the week of May 8-14, 2022 as Affordable Housing Week in the City of Auburn.

F. Asian American, Native Hawaiian, and Pacific Islander Heritage Month

Mayor Backus read and proclaimed May as Asian American, Native Hawaiian and Pacific Islander Heritage month.

IV. APPOINTMENTS

There were no appointments.

V. AGENDA MODIFICATIONS

The Council was provided updated dates for the payroll vouchers prior to the meeting.

VI. CITIZEN INPUT, PUBLIC HEARINGS AND CORRESPONDENCE

There was no correspondence for Council to review.

A. Public Hearings

1. Public Hearing for MCI Communications Services, LLC Franchise Agreement No. FRN21-0005 (Gaub)

A Public Hearing to consider Franchise Agreement No. FRN21-0005 for MCI Communications Services, LLC

Mayor Backus opened the Public Hearing at 7:20 pm. No one came forward to speak and the hearing was closed.

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue.

1. The public can participate in-person or submit written comments in advance.

Victoria Pacho, 12 B Street, Auburn

Ms. Pacho expressed concerns about police violence and racial equity in the City of Auburn.

Bob Zimmerman, 3029 46th Place South, Auburn

Mr. Zimmerman expressed concerns regarding group think in the City of Auburn.

C. Correspondence

There was no correspondence for Council to review.

VII. COUNCIL AD HOC COMMITTEE REPORTS

Council Ad Hoc Committee Chairs may report on the status of their ad hoc Council Committees' progress on assigned tasks and may give their recommendation to the City Council, if any.

1. Finance Ad Hoc Committee (Chair Baggett)

Councilmember Baggett, Chair of the Finance ad hoc committee, reported he and Councilmember Baldwin have reviewed the claims and payroll vouchers described on the agenda this evening and recommended their approval.

2. Preservation Funding (Chair Stearns)

Councilmember Stearns reported this committee has completed their work.

VIII. CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

- A. Minutes of the April 11, 2022 Study Session Meeting

- B. Minutes of the April 18, 2022 Regular City Council Meeting

- C. Claims Vouchers (Thomas)

Claims voucher list dated May 2, 2022 which includes voucher numbers 467652 through 467796, in the amount of \$1,365,795.50 and five wire transfers in the amount of \$704,788.44

D. Payroll Voucher (Thomas)

Payroll check numbers 539357 through 539361 in the amount of \$559,930.95, electronic deposit transmissions in the amount of \$2,237,148.28 for a grand total of \$2,797,079.23 for the period covering April 14, 2022 to April 17, 2022

E. Increase Contract Amount for American West-Arts and Culture Center (Faber)

City Council to approve an increase of \$100,000.00 in the total maximum authorized contract amount for Public Works Contract No. 21-17; Construction of Project No. CP1612 Auburn Arts and Culture Center

Deputy Mayor Jeyaraj moved and Councilmember Baggett seconded to approve the consent agenda.

MOTION CARRIED UNANIMOUSLY. 7-0

IX. UNFINISHED BUSINESS

There was no unfinished business.

X. NEW BUSINESS

There was no new business.

XI. RESOLUTIONS

A. Resolution No. 5655 (Gaub)

A Resolution setting a Public Hearing to consider the Vacation of Right-of-Way of a portion of M Street NW, north of 15th Street NW, together with a portion of 29th Street NW, east of M Street NW, within the City of Auburn

Deputy Mayor Jeyaraj moved and Councilmember Stearns seconded to approve Resolution No. 5655.

MOTION CARRIED UNANIMOUSLY. 7-0

B. Resolution No. 5664 (Gaub)

A Resolution authorizing the City to apply for and if awarded, execute, and administer two grant agreements between the City of Auburn and the Washington State Department of Transportation relating to Project No. CP2213, Runway and Taxiway Improvements and RSA Grading

Councilmember Stearns moved and Councilmember Trout-Manuel seconded to approve Resolution No. 5664.

MOTION CARRIED UNANIMOUSLY. 7-0

XII. MAYOR AND COUNCILMEMBER REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. From the Council

Deputy Mayor Jeyaraj noted other jurisdictions are adopting the City of Auburn's philosophy on homelessness.

Councilmember Stearns reported he attended the opening of the new channels in the Green River and a memorial ceremony for the Fall of Saigon.

Councilmember Baggett reported he will be attending the Pierce County Cities Law Enforcement memorial

Councilmember Trout-Manuel reported she attended the HELO Board Meeting and the Children and Youth Advisory Board Meeting.

Councilmember Brown noted President Biden used the City of Auburn Municipal airport for his visit to Auburn.

B. From the Mayor

Mayor Backus reported she participated in Arbor Day activities, a ground breaking for Divine Court, an anti-homelessness summit, President Biden's visit to Green River College, Washington to Washington DC Conference, Empty Bowls fundraiser and a tour at the White River Valley Museum. She thanked retired Fire Deputy Chief Dave Larberg for his service to the Community.

XIII. ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 7:52 p.m.

APPROVED this 16th day of May, 2022.

NANCY BACKUS, MAYOR

Shawn Campbell, City Clerk

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers (Thomas)

Date:

May 10, 2022

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Claim Vouchers.

Background for Motion:**Background Summary:**

Claims voucher list dated May 16, 2022 which includes voucher numbers 467797 through 468006, in the amount of \$6,761,334.80 and four wire transfers in the amount of \$698,094.41.

Reviewed by Council Committees:**Councilmember:****Staff:**

Thomas

Meeting Date: May 16, 2022

Item Number:

CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Voucher (Thomas)

Date:

May 10, 2022

Department:

Finance

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

Approve Payroll Vouchers.

Background for Motion:**Background Summary:**

Payroll check numbers 539362 through 539369 in the amount of \$75,744.10, electronic deposit transmissions in the amount of \$2,415,764.88 for a grand total of \$2,491,508.98 for the period covering April 28, 2022 to May 11, 2022.

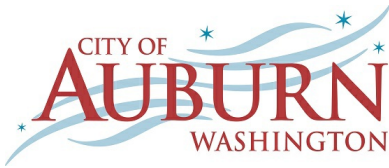
Reviewed by Council Committees:**Councilmember:****Staff:**

Thomas

Meeting Date: May 16, 2022

Item Number:

CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Setting date for Public Hearing for Ordinance No. 6862 (Gaub)

Date:

May 10, 2022

Department:

Public Works

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council set the date of the Public Hearing for Inland Washington, LLC Street Payback Agreement #PBK19-0001 as June 21, 2022, at 7:00 pm.

Background for Motion:**Background Summary:**

Inland Washington, LLC has constructed half street improvements along D Street NE between Auburn Way North and 49th Street NE to mitigate the traffic impact of their development. This improvement benefits other properties and is eligible for a Payback Agreement. The Agreement would provide reimbursement to the developer when those benefitted properties benefit from the improvement, as they develop or redevelop.

Auburn City Code 3.25.080 requires the City to conduct a public hearing to consider an ordinance approving the payback agreement, to notify all property owners within the proposed reimbursement assessment area of the public hearing, and to allow them time to comment on the proposed agreement.

Staff will present further background and information at the Council Study Session on June 13, 2022 prior to the hearing.

Reviewed by Council Committees:

Councilmember: Stearns

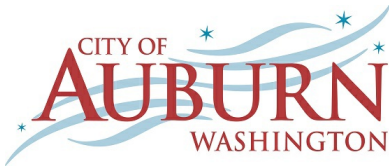
Staff:

Gaub

Meeting Date: May 16, 2022

Item Number:

CA.E



AGENDA BILL APPROVAL FORM

Agenda Subject:

Setting date for Public Hearing for Ordinance No. 6863 (Gaub)

Date:

May 10, 2022

Department:

Public Works

Attachments:

No Attachments Available

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council set the date of the Public Hearing for Inland Washington, LLC Street Payback Agreement #PBK19-0002 as June 21, 2022, at 7:00 pm.

Background for Motion:**Background Summary:**

Inland Washington, LLC has constructed a traffic signal at the intersection of Auburn Way North and 49th Street NE to mitigate the traffic impact of their development. This improvement benefits other properties and is eligible for a Payback Agreement. The Agreement would provide reimbursement to the developer when those benefitted properties benefit from the improvement, as they develop or redevelop.

Auburn City Code 3.25.080 requires the City to conduct a public hearing to consider an ordinance approving the payback agreement, to notify all property owners within the proposed reimbursement assessment area of the public hearing, and to allow them time to comment on the proposed agreement.

Staff will present further background and information at the Council Study Session on June 13, 2022 prior to the hearing.

Reviewed by Council Committees:

Councilmember: Stearns

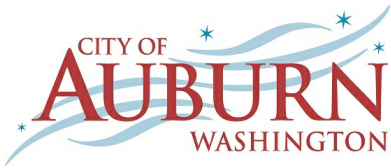
Staff:

Gaub

Meeting Date: May 16, 2022

Item Number:

CA.F



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6858 (Gaub)

Date:

May 5, 2022

Department:

Public Works

Attachments:

[Ordinance No. 6858](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to introduce and adopt Ordinance No. 6858.

Background for Motion:

This Ordinance allows MCI Communications Services, LLC to continue to operate their existing fiber optic telecommunications facilities located in the public way under a new franchise agreement as their current franchise agreement is set to expire in the near future. MCI Communications Services, LLC currently provides interexchange services and long distance services to consumer and business customers from the existing facilities.

Background Summary:

Section 20.02.040 of the Auburn City Code requires a franchise for any telecommunications carrier or operator to use public ways of the City and to provide telecommunications services to any person or areas inside or outside of the City.

MCI Communications Services, LLC has applied for a new franchise agreement to continue to operate their existing fiber optic telecommunications facilities located in the public way in seven east/west road crossings of the Union Pacific Rail Road property that runs north/south through the City, and various locations in the public way in downtown Auburn as their current franchise agreement is set to expire in the near future. MCI Communications Services, LLC currently provides interexchange services and long distance services to consumer and business customers from the existing facilities.

The proposed agreement is consistent with the City's standard franchise agreement language and requires that any repairs, upgrades and improvements to the existing facilities are permitted and managed through the City's permitting processes. The proposed agreement would be valid for a term of 15 years.

A staff presentation was given at the April 25, 2022 Study Session discussing Draft Ordinance No. 6858. A Public Hearing to consider this application and hear public comment was held before the City Council on May 2, 2022, in accordance with Auburn City Code 20.04.040.

Ordinance No. 6858 authorizes Franchise Agreement No. FRN21-0005 with MCI

Communications Services, LLC subject to the terms and conditions outlined in the Ordinance.

Reviewed by Council Committees:

Councilmember: Stearns

Staff: Gaub

Meeting Date: May 16, 2022

Item Number: ORD.A

ORDINANCE NO. 6858

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO MCI COMMUNICATIONS SERVICES LLC, A DELAWARE LIMITED LIABILITY COMPANY, A FRANCHISE FOR WIRELINE TELECOMMUNICATIONS.

WHEREAS, MCI Communications Services LLC ("Franchisee") has applied for a non-exclusive Franchise for the right of entry, use, and occupation of certain public ways within the City of Auburn ("City"), expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those public ways; and

WHEREAS, following proper notice, the City Council held a public hearing on Franchisee's request for a Franchise; and

WHEREAS, based on the information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City to grant the franchise to Franchisee.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, DO ORDAIN as follows:

Section 1. Definitions

For the purpose of this agreement and the interpretation and enforcement thereof, definitions of words and phrases shall be in accordance with Auburn City Code 20.02.020. In addition, the following definitions apply:

- A. "ACC" means the Auburn City Code.
- B. "Franchise Area" means the public ways as specified in Exhibit "A".

Franchise Area does not include private property located outside of the public way which the Franchisee may utilize, lease, or otherwise use for placement of Franchisee Facilities with authorization of other permissions from third parties, and including any necessary permits from any regulatory authority.

C. "Franchisee's Facilities" means any and all communications transmissions and distribution systems constructed and operated within the Franchise Area including, without limitation, all cables, wires, conduits, ducts,

pedestals, and any associated equipment or other items necessary for Telecommunications Services, as defined in Chapter 35.99.010(7) RCW, that are located in the Franchise Area whether above or below ground.

Franchisee's Facilities do not include facilities used to provide wireless services, including antennas or other equipment, appliances, attachments and appurtenances associated with wireless telecommunications facilities. Franchisee's facilities do not include small wireless facilities, microcell, minor facility, or small cell facilities, as defined in Chapter 80.36.375 RCW. Franchisee's facilities do not include any facilities that are not located within the Franchise Area or that are covered under a separate Franchise Agreement or agreement.

D. "Franchisee's Services" means any telecommunications service, telecommunications capacity, leasing of dark fiber, offered by the Franchisee using its Facilities in the Franchise Area, to affiliates and third parties, including, but not limited to, the transmission of voice, data or other electronic information, or other subsequently developed technology that carries a signal over cable. Franchisee's Services offered may also include non-switched, dedicated and private line, high capacity fiber optic transmission services to firms, businesses or institutions within the Franchise Area, mobile fronthaul and backhaul services, and other lawful services not prohibited by this Ordinance. However, Franchisee's Services will not include the provision of "cable services", as defined by 47 U.S.C. §522, as amended, for which a separate franchise would be required.

Section 2. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated in this Agreement, the City grants to the Franchisee general permission to enter, use, and occupy the Franchise Area specified in Exhibit "A", attached hereto and incorporated by reference. Franchisee may locate the Franchisee's Facilities within the Franchise Area subject to all applicable laws, regulations, and permit conditions.

B. The Franchisee is authorized to install, remove, construct, erect, operate, maintain, relocate, upgrade, replace, restore, and repair Franchisee's Facilities to provide Franchisee's Services in the Franchise Area.

C. This Franchise does not authorize the use of the Franchise Area for any facilities or services other than Franchisee Facilities and Franchisee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Franchisee Facilities and Franchisee Services, on public or private property elsewhere within the City.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including Franchises, impacting the Franchise

Area, for any purpose that does not interfere with Franchisee's rights under this Franchise.

E. Except as explicitly set forth in this Agreement, this Franchise does not waive any rights that the City has or may acquire with respect to the Franchise Area or any other City roads, public ways, or property. This Franchise will be subject to the power of eminent domain, and in any proceeding under eminent domain, the Franchisee acknowledges its use of the Franchise Area shall have no value.

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any public way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Franchisee Facilities, the City shall reserve an easement for public utilities within that vacated portion, pursuant to Chapter 35.79.030 RCW, within which the Franchisee may continue to operate any existing Franchisee Facilities under the terms of this Franchise for the remaining period set forth under Section 4.

G. The Franchisee agrees that its use of Franchise Area shall at all times be subordinated to and subject to the City and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

Section 3. Notice

A. Written notices to the parties shall be sent by a nationally recognized overnight courier or by certified mail to the following addresses, unless a different address is designated in writing and delivered to the other party. Any such notice shall become effective upon receipt by certified mail, confirmed delivery by overnight courier, or the date stamped received by the City. Any communication made by e-mail or similar method will not constitute notice pursuant to this Agreement, except in case of emergency notification.

City: Right-of-Way Specialist,
Public Works Department - Transportation
City of Auburn
25 West Main Street
Auburn, WA 98001-4998
Telephone: (253) 931-3010

with a copy to: City Clerk
City of Auburn
25 West Main Street
Auburn, WA 98001-4998

Franchisee: MCI Communications Services LLC
Attn: Franchise Manager
600 Hidden Ridge
Irving, TX 75038
972-457-8337

with a copy to: Verizon Legal Department
Attn: Network Legal Team
1300 I Street, NW
5th Floor
Washington, DC 20005

B. Any changes to the above-stated Franchisee information shall be sent to the City's Right-of-Way Specialist, Public Works Department – Transportation Division, with copies to the City Clerk, referencing the title of this Agreement.

C. The local contact can be reached at 425-301-8367 or jared.harris@verizon.com during normal business hours. Franchisee will notify the City within five business days of any changes to the local contact information. The City may contact Franchisee at the following number for emergency or other needs outside of normal business hours of the Franchisee: 1-800-624-9675.

Section 4. Term of Agreement

A. This Franchise shall run for a period of fifteen (15) years, from the date of Franchise Acceptance as described in Section 5 of this Agreement.

B. Automatic Extension. If the Franchisee fails to formally apply for a new franchise agreement prior to the expiration of this Franchise's term or any extension thereof, this Franchise automatically continues month to month until a new franchise agreement is applied for and approved under the then current process or until either party gives written notice at least one hundred and eighty (180) days in advance of intent to cancel this Franchise.

Section 5. Acceptance of Franchise

A. This Franchise will not become effective until Franchisee files with the City Clerk (1) the Statement of Acceptance (Exhibit "A"), (2) all verifications of insurance coverage specified under Section 16, (3) the financial security specified in Section 17, and (4) payment of any outstanding application fees required in the City Fee Schedule. These four items will collectively be the "Franchise

Acceptance". The date that such Franchise Acceptance is filed with the City Clerk will be the effective date of this Franchise.

B. If the Franchisee fails to file the Franchise Acceptance with the City Clerk within thirty (30) days after the effective date of the ordinance approving the Franchise as described in Section 28 of this Agreement, the City's grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Franchisee shall apply for, obtain, and comply with the terms of all permits required under applicable law for any work done within the City. Franchisee will comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work.

B. Franchisee agrees to coordinate its activities with the City and all other utilities located within the public way within which Franchisee is under taking its activity.

C. The City expressly reserves the right to prescribe how and where Franchisee's Facilities will be installed within the public way and may require the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Franchisee as provided for in Chapter 35.99 RCW.

D. Before beginning any work within the public way, the Franchisee will comply with the One Number Locator provisions of Chapter 19.122 RCW to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the city the Franchisee shall have the authority to trim trees upon and overhanging streets, public ways and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Franchisee's Facilities. Franchisee shall be responsible for debris removal from such activities. If such debris is not removed within 24 hours, the City may, at its sole discretion, remove such debris and charge the Franchisee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require other permits as necessary from the City.

Section 7. Trench Repair for Street Restorations

A. At any time during the term of this Franchise, if a Franchisee Facility or trench within the Franchise Area causes a street to crack, settle, or otherwise fail, the City will notify Franchisee of the deficiency and Franchisee agrees to

restore the deficiency and repair the damage within thirty (30) days of written notice by the City.

B. For purposes of the Section, "street" shall mean all City owned improvements within a public way, including, but is not limited to, the following: pavement, sidewalks, curbing, above and below-ground utility facilities, and traffic control devices.

Section 8. Repair and Emergency Work

In the event of an emergency, the Franchisee may commence repair and emergency response work as required under the circumstances. The Franchisee will notify the City telephonically during normal business hours (at 253-931-3010) and during non-business hours (at 253-876-1985) as promptly as possible, before such repair or emergency work commences, and in writing as soon thereafter as possible. Such notification shall include the Franchisee's emergency contact phone number for corresponding response activity. The City may commence emergency response work, at any time, without prior written notice to the Franchisee, but will notify the Franchisee in writing as promptly as possible under the circumstances. Franchisee will reimburse the City for the City's actual cost of performing emergency response work.

Section 9. Damages to City and Third-Party Property

Franchisee agrees that if any of its actions, or the actions of any person, agent, or contractor acting on behalf of the Franchisee under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Franchisee will restore, at its own cost and expense, the property to a safe condition. Upon returning the property to a safe conditions, the property shall then be returned to the condition it was in immediately prior to being damaged (if the safe condition of the property is not the same as that which existed prior to damage). All repair work shall be performed and completed to the satisfaction of the City Engineer.

Section 10. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility or other franchisee, other than the Franchisee's, which was installed, constructed, completed or in place prior in time to Franchisee's application for a permit to construct or repair Franchisee's Facilities under this Franchise shall have preference as to positioning and location with respect to the Franchisee's Facilities. However, to the extent that the Franchisee's Facilities are completed and installed before another utility or other franchisee's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then the

Franchisee's Facilities will have priority. These rules governing preference shall continue when relocating or changing the grade of any City road or public way. A relocating utility or franchisee will not cause the relocation of another utility or franchisee that otherwise would not require relocation. This Section will not apply to any City facilities or utilities that may in the future require the relocation of Franchisee's Facilities. Such relocations will be governed by Section 11 and Chapter 35.99 RCW.

B. Franchisee will maintain a minimum underground horizontal separation of five (5) feet from City water, sanitary sewer and storm sewer facilities and ten (10) feet from above-ground City water facilities; provided, that for development of new areas, the City, in consultation with Franchisee and other utility purveyors or authorized users of the public way, will develop guidelines and procedures for determining specific utility locations.

Section 11. Relocation of Franchisee Facilities

A. Except as otherwise so required by law, Franchisee agrees to relocate, remove, or reroute its facilities as ordered by the City Engineer at no expense or liability to the City, except as may be required by Chapter 35.99 RCW. Pursuant to the provisions of Section 15, Franchisee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the public way.

B. If a readjustment or relocation of the Franchisee Facilities is necessitated by a request from a party other than the City, that party shall pay the Franchisee the actual costs associated with such relocation.

Section 12. Abandonment and or Removal of Franchisee Facilities

A. Within one hundred and eighty days (180) of Franchisee's permanent cessation of use of the Franchisee's Facilities, the Franchisee will, at the City's discretion, either abandon in place or remove the affected facilities.

B. Franchisee may ask the City in writing to abandon, in whole or in part, all or any part of the Franchisee's Facilities. Any plan for abandonment of Franchisee Facilities must be approved in writing by the City.

C. The parties expressly agree that this Section will survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding

A. The parties agree that this Franchise does not limit the City's authority under federal law, state law, or local ordinance, to require the undergrounding of utilities.

B. Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Franchisee will underground the Franchisee's Facilities in the manner specified by the City Engineer at no expense or liability to the City, except as may be required by Chapter 35.99 RCW. Where other utilities are present and involved in the undergrounding project, Franchisee will only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Franchisee's Facilities. Common costs will include necessary costs for common trenching and utility vaults. Fair share will be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Franchisee Information

A. Franchisee agrees to supply, at no cost to the City, any information reasonably requested by the City to coordinate municipal functions with Franchisee's activities and fulfill any municipal obligations under state law. Said information will include, at a minimum, as-built drawings of Franchisee's Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system, including the City's Geographic Information System (GIS) data base. Franchisee will keep the City informed of its long-range plans for coordination with the City's long-range plans.

B. The parties understand that Chapter 42.56 RCW and other applicable law may require public disclosure of information given to the City.

Section 15. Indemnification and Hold Harmless

A. Franchisee shall defend, indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, or liabilities of any nature, which arises out of or in connection with the Franchisee's performance, non-performance or default under this Franchise, , except to the extent such costs, claims, injuries, damages, losses, suits or liabilities are caused by the sole or contributory 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 Franchisee and the City, its officers, officials, employees, and volunteers, the Franchisee's liability hereunder shall be only to the extent of the Franchisee's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Franchisee'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.

B. The Franchisee will hold the City harmless from any liability arising out of or in connection with any damage or loss to the Franchisee's Facilities caused by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any other City road, public way, or other property, except to the extent any such damage or loss is directly caused by the negligence of the City, or its agent performing such work.

C. The Franchisee acknowledges that neither the City nor any other public agency with responsibility for firefighting, emergency rescue, public safety or similar duties within the City has the capability to provide trench, close trench or confined space rescue. The Franchisee, and its agents, assigns, successors, or contractors, will make such arrangements as Franchisee deems fit for the provision of such services. The Franchisee will hold the City harmless from any liability arising out of or in connection with any damage or loss to the Franchisee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 15 (A), the Franchisee will indemnify the City against any and all third-party costs, claims, injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

Section 16. Insurance

A. The Franchisee shall procure and maintain for the duration of this Agreement and as long as Franchisee has Facilities in the public way, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Agreement and use of the public way.

B. No Limitation. The Franchisee's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Franchisee 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 Franchisee shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 or its equivalent and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be included as an additional insured under the Franchisee's Commercial General Liability insurance policy with respect this Franchise Agreement using ISO endorsement CG 20 12 05 09 or its equivalent if the franchise agreement is considered a master permit as defined by RCW 35.99.010, or CG 20 26 07 04 if it is not, or substitute endorsement providing at least as broad coverage.

2. 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 or its equivalent.

3. Contractors Pollution Liability insurance shall be in effect throughout the entire Franchise Agreement covering losses caused by pollution conditions that arise from the operations of the Franchisee. Contractors Pollution Liability shall cover bodily injury, property damage, cleanup costs and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

5. Excess or Umbrella Liability insurance shall be excess over and at least as broad in coverage as the Franchisee's Commercial General Liability and Automobile Liability insurance. The City shall be named as an additional insured on the Franchisee's Excess or Umbrella Liability insurance policy.

D. Minimum Insurance Amounts. The Franchisee shall maintain the following insurance limits:

1. Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate.

2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$5,000,000 each accident.

3. Contractors Pollution Liability insurance shall be written in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$2,000,000.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and employer's liability insurance with limits of not less than \$1,000,000.00 each accident/disease/policy limit.

5. Excess or Umbrella Liability insurance shall be written with limits of not less than \$5,000,000 per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Franchisee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits.

E. Other Insurance Provisions. Franchisee's Commercial General Liability, Automobile Liability, Excess or Umbrella Liability, Contractors Pollution Liability insurance policy or policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Franchisee's insurance and shall not contribute with it.

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

G. Verification of Coverage. The Franchisee shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of this Agreement. Upon request by the City, the Franchisee shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.

H. Subcontractors. The Franchisee shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Franchisee-provided insurance as set forth herein, except the Franchisee shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Franchisee shall ensure that the City is an additional insured on each and every Subcontractor's Commercial

General liability insurance policy using an endorsement as least as broad as ISO form CG 20 26 or equivalent.

I. Notice of Cancellation. Upon receipt of notice from its insurer(s) Franchisee shall provide the City with thirty (30) days' prior written notice of any policy cancellation.

J. Failure to Maintain Insurance. Failure on the part of the Franchisee to maintain the insurance as required shall constitute a material breach of Agreement, upon which the City may, after giving five business days' notice to the Franchisee to correct the breach, terminate the Agreement.

K. Franchisee – Self-Insurance. Franchisee will have the right to self-insure any or all of the above-required insurance. Any such self-insurance is subject to approval by the City. If the Franchisee is self-insured or becomes self-insured during the term of the Franchise Agreement, Franchisee or its affiliated parent entity shall comply with the following: (i) provide the City, upon request, a copy of Franchisee's or its parent company's most recent audited financial statements, if such financial statements are not otherwise publicly available; (ii) Franchisee or its parent company is responsible for all payments within the self-insured retention; and (iii) Franchisee assumes all defense and indemnity obligations as outlined in Section 15.

Section 17. Financial Security

The Franchisee will provide the City with a financial security in the amount of Fifty Thousand Dollars (\$50,000.00) running for, or renewable for, the term of this Franchise, in a form and substance acceptable to the City. If Franchisee fails to substantially comply with any one or more of the provisions of this Franchise, the City may recover jointly and severally from the principal and any surety of that financial security any damages suffered by the City as a result Franchisee's failure to comply, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities. Franchisee specifically agrees that its failure to comply with the terms of Section 20 will constitute damage to the City in the monetary amount set forth in that section. Any financial security will not be construed to limit the Franchisee's liability to the security amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 18. Successors and Assignees

A. All the provisions, conditions, regulations and requirements contained in this Franchise are binding upon the successors, assigns of, and independent contractors of the Franchisee, and all rights and privileges, as well as

all obligations and liabilities of the Franchisee will inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever the Franchisee is mentioned.

B. This Franchise will not be leased, assigned or otherwise alienated without the express prior consent of the City by ordinance, which consent shall not be unreasonably withheld, conditioned or delayed.

C. Franchisee and any proposed assignee or transferee will provide and certify the following to the City not less than ninety (90) days prior to the proposed date of transfer: (1) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (2) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (3) An application fee in the amount established by the City's fee schedule, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

D. Before the City's consideration of a request by Franchisee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee will file with the City a written promise to unconditionally accept all terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the transferor's state of compliance and failure of the City to insist on full compliance before transfer does not waive any right to insist on full compliance thereafter.

Section 19. Dispute Resolution

A. In the event of a dispute between the City and the Franchisee arising by reason of this Agreement, the dispute will first be referred to the operational officers or representatives designated by City and Franchisee to have oversight over the administration of this Agreement. The officers or representatives will meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties will make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise will be governed by and construed in accordance with the laws of the State of Washington. If any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue will be exclusively in King County, Washington. The prevailing party in any such action will be entitled to its attorneys' fees and costs.

Section 20. Enforcement and Remedies

A. If the Franchisee willfully violates, or fails to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or fails to comply with any notice given to Franchisee under the provisions of this agreement, the City may, at its discretion, provide Franchisee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Franchisee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Franchisee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the financial guarantee set forth in Section 17 for every day after the expiration of the cure period that the breach is not cured.

B. If the City determines that Franchisee is acting beyond the scope of permission granted in this Franchise for Franchisee Facilities and Franchisee Services, the City reserves the right to cancel this Franchise and require the Franchisee to apply for, obtain, and comply with all applicable City permits, franchises, or other City permissions for such actions, and if the Franchisee's actions are not allowed under applicable federal and state or City laws, to compel Franchisee to cease those actions.

Section 21. Compliance with Laws and Regulations

A. This Franchise is subject to, and the Franchisee will comply with all applicable federal and state or City laws, regulations and policies (including all applicable elements of the City's comprehensive plan), in conformance with federal laws and regulations, affecting performance under this Franchise. The Franchisee will be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

B. The City reserves the right at any time to amend this Franchise to conform to any federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City Ordinance enacted pursuant to such federal or state statute or regulation enacted, amended, or adopted after the effective date of this Franchise if it provides Franchisee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. The amendment will become automatically effective on expiration of the notice period unless, before expiration of that period, the Franchisee makes a written call for

negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, the City may enact the proposed amendment, by incorporating the Franchisee's concerns to the maximum extent the City deems possible.

C. The City may terminate this Franchise upon thirty (30) days written notice to the Franchisee, if the Franchisee fails to comply with such amendment or modification.

Section 22. License, Tax and Other Charges

This Franchise will not exempt the Franchisee from any future license, tax, or charge which the City may adopt under authority granted to it under state or federal law for revenue or as reimbursement for use and occupancy of the Franchise Area.

Section 23. Consequential Damages Limitation

Notwithstanding any other provision of this Agreement, in no event will either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 24. Severability

If any portion of this Franchise is deemed invalid, the remainder portions will remain in effect.

Section 25. Titles

The section titles used are for reference only and should not be used for the purpose of interpreting this Franchise.

Section 26. Implementation.

The Mayor is authorized to implement those administrative procedures necessary to carry out the directions of this legislation.

Section 27. Entire Agreement

This Agreement, as subject to the appropriate city, state, and federal laws, codes, and regulations, and the attachments hereto represent the entire understanding and agreement between the parties with respect to the subject matter and it supersedes all prior oral negotiations between the parties. All

previous Agreements between the parties pertaining to Franchisee's operation of its Facilities are hereby superseded.

Section 28. Effective date.

This Ordinance will take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney

PUBLISHED: _____

EXHIBIT "A"

Franchise Area

MCI Communications Services LLC fiber optics communications trunkline in a three inch (3") pipe conduit in the Union Pacific Rail Road property that runs north/south through the City and occupies 460 +/- linear feet of City public way through seven east/west road crossings pursuant to City of Auburn Public Way Agreement No 96-07. The specific crossing locations that make up the Franchise Area are adjacent to the Union Pacific Rail line and are as follows:

1. Crossing at S 277th Street, 60 feet.
2. Crossing S 285th Street (aka 44th Street NW), 50 feet.
3. Crossing 37th Street NW, 60 feet.
4. Crossing 29th Street NW, 50 feet.
5. Crossing 15th St NW, 80 feet.
6. Crossing West Main Street, 60 feet.
7. Crossing 15th Street SW, 100 feet.

Together with;

MCI Communications Services LLC fiber optics communications in downtown Auburn from the Burlington Northern Rail Road property that runs north/south through the City of Auburn to 10 Second Street SE in the below listed streets pursuant to City of Auburn public Way Agreement No. 08-03 and per MCI Communications Services Inc. Capital Project #048448-001 As-Built Plans dated July 16, 2008:

1. West Main Street between BNSF Rail Road and B St SW
2. B Street SW between West Main Street and Alley
3. Alley south of West Main Street between B St SW and A St SW
4. A Street SW between Alley and 3rd St SW
5. 2nd Street SW between A St SW and A St SE
6. S Division Street between 2nd St SW and 3rd St SW
7. Alley south of 2nd Street SW between S Division Street and A Street SW

EXHIBIT "B"

STATEMENT OF ACCEPTANCE

MCI Communications Services LLC, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

MCI Communications Services LLC
600 Hidden Ridge, 2nd Fl
Irving, TX 75038

By: _____ Date: _____

Name: Dina Dye

Title: Senior Manager – Network Regulatory/Real Estate

STATE OF TEXAS)
)ss.
COUNTY OF _____)

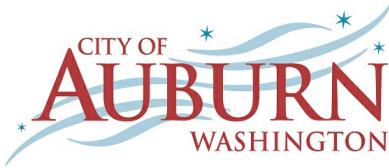
On this ____ day of _____, 2022, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Signature

NOTARY PUBLIC in and for the State of _____, residing at _____

MY COMMISSION EXPIRES: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6864 (Gaub)

Date:

May 9, 2022

Department:

Public Works

Attachments:

[Ordinance No. 6864](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council introduce and adopt Ordinance No. 6864.

Background for Motion:

This Ordinance will remove the late fee waiver on airport fees as the Governor's past actions in 2021 have already removed the late fee waiver related to utility accounts. The waiver of these fees is no longer necessary to address the negative impacts of the pandemic.

Background Summary:

Ordinance No. 6864 repeals four past ordinances that were enacted to allow for a temporary waiver of late fees for City utility and airport accounts during the COVID-19 pandemic to ease the negative impact on low-wage workers, individuals on fixed incomes, non-profit organizations and small businesses and to reduce the frequency of in-person bill payment during the emergency. The waiver of late fees was implemented until the earlier of the termination of the Mayor's emergency proclamation or the termination of the Governor's Proclamation 20-23. Under the Governor's proclamations, the waiver of late fees on utility accounts was terminated in September of 2021 however, the City's waiver on airport late fees continued. At this time, staff have determined that the waiver of late fees for airport accounts is no longer necessary.

Reviewed by Council Committees:

Councilmember: Stearns

Staff:

Gaub

Meeting Date: May 16, 2022

Item Number:

ORD.B

ORDINANCE NO. 6864

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, REPEALING ORDINANCES 6767, 6777, 6788 AND 6802 THAT PROVIDED FOR A TEMPORARY WAIVER OF LATE FEES FOR AIRPORT AND UTILITY ACCOUNTS, IN LIGHT OF A PUBLIC HEALTH EMERGENCY.

WHEREAS, in 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency because of COVID- 19 and the Washington Governor declared a State of Emergency due to new cases of COVID-19; and

WHEREAS, temporarily waiving the charging of late fees on delinquent bill balances for utility bills and airport fees, was necessary in Auburn both to help ease the negative impact on low-wage workers, individuals on fixed incomes, non-profit organizations and small businesses and to reduce the frequency of in-person bill payment during the emergency; and

WHEREAS, as part of its continued efforts to respond to the emergency and provide assistance to its customers, the City determined it was appropriate to temporarily waive imposition or collection of late fees and penalties assessed against users of the City' s utility systems and municipal airport by adopting Auburn Ordinances 6767, 6777, 6788, and 6802; and

WHEREAS, Auburn Ordinance 6802, adopted by the City Council on October 19, 2020, waived the imposition and collection of late fees assessed against users of the City of Auburn' s utility systems and municipal airport until the earlier of: a) termination of the

civil emergency proclaimed by the Mayor on March 5, 2020; or (b) the fourteenth (14th) day after termination or expiration of Governor's Proclamation 20-23; and

WHEREAS, Governor's Proclamation 20-23 has been superseded by several proclamations through 20-23.16, which terminated the waiver of late fees applicable to utility accounts in September of 2021; and

WHEREAS, the remaining provision of Auburn Ordinance 6802 addresses Auburn Airport accounts and the City has determined the waiver of late fees for Airport accounts is no longer necessary.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Repeal. The Auburn City Council repeals Auburn Ordinance 6802, in addition to Auburn Ordinances 6767, 6777, and 6788 to the extent that any provisions remained, which superseded certain sections of Auburn City Code.

Section 2. Affected City Code Sections. All sections or subsections of the ACC that authorize or require the collection of late fees and penalties on delinquent airport fees will be enforced beginning June 1, 2022 in accordance with chapter 12.56 ACC.

Section 3. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 4. Severability. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. **Effective date.** This Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

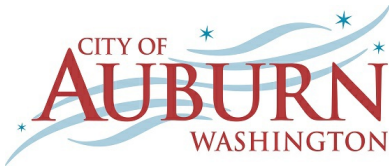
ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney

Published: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5665 (Backus)

Date:

April 27, 2022

Department:

Administration

Attachments:

[Resolution No. 5665](#)

[Previous ILA](#)

[2022 ILA](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:

City Council to adopt Resolution No. 5665.

Background for Motion:

The Interlocal Agreement between the City of Auburn and Department of Social and Health Services will allow for completion of applications to provide assistance to clients that are in need of access to food assistance and other social services assistance provided by the state.

Background Summary:

The reason for the Interlocal Agreement between the City of Auburn and King County Coordinated Entry is to access the Homelessness Management Information System. This allows for the City to have access to services and funding through King County and provides a coordinated effort through data collection to keep accurate numbers of people utilizing these services in the system.

Reviewed by Council Committees:

Councilmember: Mulenga

Staff: Backus

Meeting Date: May 16, 2022

Item Number: RES.A

RESOLUTION NO. 5665

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL DATASHARE AGREEMENT WITH THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

WHEREAS, individuals within the City of Auburn are experiencing homelessness, and desire available governmental resources to assist them with their housing challenges and economic needs;

WHEREAS, the novel coronavirus and its impacts to the local economy are likely to create greater housing and economic needs;

WHEREAS, the City previously entered into an Interlocal Datashare Agreement with the Department of Social and Health Services (“DSHS”), which allowed City staff to assist individuals in completing online applications to access available federal, state, and local services through the Washington connection benefit portal and carry out other activities designed to help them maintain eligibility; and,

WHEREAS, the Interlocal Datashare Agreement is set to expire on May 31, 2022; and

WHEREAS, the City would like to enter into another Datashare Agreement in order to continue providing these services to those in need; and

WHEREAS, there is no additional cost to the City in joining the Interlocal Datashare Agreement with DSHS.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RESOLVES as follows:

Section 1. The Mayor is authorized to execute the Interlocal Datashare with DSHS, which agreement will be in substantial conformity with the agreement attached as Exhibit A.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this Resolution.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed: _____

CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:

Shawn Campbell, MMC, City Clerk

Kendra Comeau, City Attorney



Washington State
Department of Social
& Health Services

Transforming lives

INTERLOCAL DATASHARE AGREEMENT

Washington Connection

DSHS Agreement Number:
2091-84101

This Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

Program Contract Number:

Contractor Contract Number:

CONTRACTOR NAME		CONTRACTOR doing business as (DBA)	
City of Auburn			
CONTRACTOR ADDRESS		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER
25 W Main St Auburn, WA 98001		171-000-010	22473
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS
Kent Hay	(253) 294-6429		khay@auburnwa.gov

DSHS ADMINISTRATION	DSHS DIVISION	DSHS CONTRACT CODE
Economic Services Administration	Community Services Division	3067DS-91

DSHS CONTACT NAME AND TITLE	DSHS CONTACT ADDRESS
Stephanie Hart (Hill) Program Administrator	PO Box 45440 Olympia, WA 98504-5440

DSHS CONTACT TELEPHONE	DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS
(360) 725-4666	(360) 725-4905	hillsr@dshs.wa.gov

IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?	CFDA NUMBER(S)
No	

AGREEMENT START DATE	AGREEMENT END DATE	MAXIMUM AGREEMENT AMOUNT
06/01/2020	05/31/2022	No Payment

EXHIBITS. The following Exhibits are attached and are incorporated into this Agreement by reference:

- ☒ Data Security: Exhibit A – Data Security Requirements
☐ Exhibits (specify):

The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise regarding the subject matter of this Agreement, between the parties. The parties signing below represent they have read and understand this Agreement, and have the authority to execute this Agreement. This Agreement shall be binding on DSHS only upon signature by DSHS.

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
	Nancy Backus, Mayor	5.28.20
DSHS SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
	Alice Hildebrandt, Contracts Officer DSHS/ESA/Community Services Division	

APPROVED AS RPTM
X DASHS P RTH
DSHS Central Contract Services
3067DS-91 Washington Connection DS Interlocal (5-6-2020)

 Washington State Department of Social & Health Services <i>Transforming lives</i>	INTERLOCAL DATASHARE AGREEMENT Washington Connection	DSHS Agreement Number: 2291-42352	
This Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.		Program Contract Number: Contractor Contract Number:	
CONTRACTOR NAME City of Auburn		CONTRACTOR doing business as (DBA)	
CONTRACTOR ADDRESS 25 W Main St Auburn, WA 98002		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI) 171-000-010	DSHS INDEX NUMBER 22473
CONTRACTOR CONTACT Kent Hay	CONTRACTOR TELEPHONE (253) 294-6429	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS khay@auburnwa.gov
DSHS ADMINISTRATION Economic Services Administration	DSHS DIVISION Community Services Division		DSHS CONTRACT CODE 3067DS-91
DSHS CONTACT NAME AND TITLE Jessica Gempler Program Administrator		DSHS CONTACT ADDRESS 712 SE Pear St Olympia, WA 98504	
DSHS CONTACT TELEPHONE (509)655-0117	DSHS CONTACT FAX Click here to enter text.		DSHS CONTACT E-MAIL ADDRESS Jessica.gempler@dshs.wa.gov
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? No		CFDA NUMBER(S)	
AGREEMENT START DATE 06/01/2022	AGREEMENT END DATE 05/31/2024		MAXIMUM AGREEMENT AMOUNT No Payment
EXHIBITS. The following Exhibits are attached and are incorporated into this Agreement by reference: ☒ Data Security: Exhibit A – Data Security Requirements ☐ Exhibits (specify):			
The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise regarding the subject matter of this Agreement, between the parties. The parties signing below represent they have read and understand this Agreement, and have the authority to execute this Agreement. This Agreement shall be binding on DSHS only upon signature by DSHS.			
CONTRACTOR SIGNATURE		PRINTED NAME AND TITLE	
DSHS SIGNATURE		PRINTED NAME AND TITLE Alice Hildebrant, Contracts Officer DSHS/ESA/Community Services Division	
DATE SIGNED		DATE SIGNED	

DSHS General Terms and Conditions

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "Central Contracts and Legal Services" means the DSHS central headquarters contracting office, or successor section or office.
 - b. "Confidential Information" or "Data" means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.
 - c. "Contract" or "Agreement" means the entire written agreement between DSHS and the Contractor, including any Exhibits, documents, or materials incorporated by reference. The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
 - d. "CCLS Chief" means the manager, or successor, of Central Contracts and Legal Services or successor section or office.
 - e. "Contractor" means the individual or entity performing services pursuant to this Contract and includes the Contractor's owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, "Contractor" includes any Subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.
 - f. "Debarment" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
 - g. "DSHS" or the "Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
 - h. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key;" a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
 - i. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
 - j. "Physically Secure" means that access is restricted through physical means to authorized individuals only.
 - k. "Program Agreement" means an agreement between the Contractor and DSHS containing special terms and conditions, including a statement of work to be performed by the Contractor and payment to be made by DSHS.
 - l. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://apps.leg.wa.gov/rcw/>.

DSHS General Terms and Conditions

- m. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
- n. "Secured Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access. Secured Areas may include buildings, rooms or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
- o. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
- p. "Tracking" means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
- q. "Trusted Systems" include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
- r. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://apps.leg.wa.gov/wac/>.

2. Amendment. This Contract may only be modified by a written amendment signed by both parties. Only personnel authorized to bind each of the parties may sign an amendment.

3. Assignment. The Contractor shall not assign this Contract or any Program Agreement to a third party without the prior written consent of DSHS.

4. Billing Limitations.

- a. DSHS shall pay the Contractor only for authorized services provided in accordance with this Contract.
- b. DSHS shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.
- c. The Contractor shall not bill and DSHS shall not pay for services performed under this Contract, if the Contractor has charged or will charge another agency of the state of Washington or any other party for the same services.

5. Compliance with Applicable Law and Washington State Requirements.

- a. **Applicable Law.** At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.
- b. **Certification Regarding COVID-19 Vaccination Requirements.** Contractor shall abide by the vaccination requirements of Governor Jay Inslee's Proclamation 21-14 and all subsequent

DSHS General Terms and Conditions

amendments. After October 18, 2021 Contractor Staff who are reasonably likely or contractually obligated to engage in work while physically present at a building, facility, jobsite, project site, unit, or other defined area owned, leased, occupied by, or controlled by a State Agency, an operator of an Educational Setting, or an operator of a Health Care Setting as defined in the Proclamation must be fully vaccinated against COVID-19 unless they have been granted a valid disability or religious accommodation by Contractor. Contractor shall obtain a copy of, or visually observe proof of full vaccination against COVID-19 for all Staff who are subject to the vaccination requirement in the Governor's Order. Contractor shall follow the requirements for granting disability and religious accommodations to Contractor's Staff that apply to State Agencies under the Governor's Order. Contractor and Contractor Staff shall provide proof of such vaccination or accommodation upon request by DSHS. Contractor shall cooperate with any investigation or inquiry DSHS makes into the employer's compliance with these requirements, including by providing information and records upon request, except any information or records that the employer is prohibited by law from disclosing.

- c. **Certification Regarding Russian Government Contracts and/or Investments.** Contractor shall abide by the requirements of Governor Jay Inslee's Directive 22-03 and all subsequent amendments. The Contractor, by signature to this Contract, certifies that the Contractor is not presently an agency of the Russian government, an entity which is Russian-state owned to any extent, or an entity sanctioned by the United States government in response to Russia's invasion of Ukraine. The Contractor also agrees to include the above certification in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor does not comply with this certification. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor does not comply with this certification during the term hereof.

6. Confidentiality.

- a. The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:
 - (1) as provided by law; or,
 - (2) in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
- b. The Contractor shall protect and maintain all Confidential Information gained by reason of this Contract against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:
 - (1) Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
 - (2) Physically Securing any computers, documents, or other media containing the Confidential Information.
 - (3) Ensure the security of Confidential Information transmitted via fax (facsimile) by:
 - (a) Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.

DSHS General Terms and Conditions

- (b) Communicating with the intended recipient before transmission to ensure that the fax will be received only by an authorized person.
 - (c) Verifying after transmittal that the fax was received by the intended recipient.
 - (4) When transporting six (6) or more records containing Confidential Information, outside a Secured Area, do one or more of the following as appropriate:
 - (a) Use a Trusted System.
 - (b) Encrypt the Confidential Information, including:
 - i. Encrypting email and/or email attachments which contain the Confidential Information.
 - ii. Encrypting Confidential Information when it is stored on portable devices or media, including but not limited to laptop computers and flash memory devices.
- Note: If the DSHS Data Security Requirements Exhibit is attached to this contract, this item, 6.b.(4), is superseded by the language contained in the Exhibit.**
- (5) Send paper documents containing Confidential Information via a Trusted System.
 - (6) Following the requirements of the DSHS Data Security Requirements Exhibit, if attached to this contract.
 - c. Upon request by DSHS, at the end of the Contract term, or when no longer needed, Confidential Information shall be returned to DSHS or Contractor shall certify in writing that they employed a DSHS approved method to destroy the information. Contractor may obtain information regarding approved destruction methods from the DSHS contact identified on the cover page of this Contract.
 - d. Paper documents with Confidential Information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and the information destroyed through the recycling process. Paper documents containing Confidential Information requiring special handling (e.g. protected health information) must be destroyed on-site through shredding, pulping, or incineration.
 - e. Notification of Compromise or Potential Compromise. The compromise or potential compromise of Confidential Information must be reported to the DSHS Contact designated on the contract within one (1) business day of discovery. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.

7. Debarment Certification. The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor becomes Debarred. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term hereof.

8. E-Signature and Records. An electronic signature or electronic record of this Contract or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract or such other ancillary agreement for all purposes.

9. Governing Law and Venue. This Contract shall be construed and interpreted in accordance with the

DSHS General Terms and Conditions

laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.

10. **Independent Contractor.** The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Department. The Contractor, his or her employees, or agents performing under this Contract will not hold himself/herself out as, nor claim to be, an officer or employee of the Department by reason hereof, nor will the Contractor, his or her employees, or agent make any claim of right, privilege or benefit that would accrue to such officer or employee.
11. **Inspection.** The Contractor shall, at no cost, provide DSHS and the Office of the State Auditor with reasonable access to Contractor's place of business, Contractor's records, and DSHS client records, wherever located. These inspection rights are intended to allow DSHS and the Office of the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.
12. **Maintenance of Records.** The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are not limited to, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.

Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. **Order of Precedence.** In the event of any inconsistency or conflict between the General Terms and Conditions and the Special Terms and Conditions of this Contract or any Program Agreement, the inconsistency or conflict shall be resolved by giving precedence to these General Terms and Conditions. Terms or conditions that are more restrictive, specific, or particular than those contained in the General Terms and Conditions shall not be construed as being inconsistent or in conflict.
14. **Severability.** If any term or condition of this Contract is held invalid by any court, the remainder of the Contract remains valid and in full force and effect.
15. **Survivability.** The terms and conditions contained in this Contract or any Program Agreement which, by their sense and context, are intended to survive the expiration or termination of the particular agreement shall survive. Surviving terms include, but are not limited to: Billing Limitations; Confidentiality, Disputes; Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination Procedure, and Treatment of Property.
16. **Contract Renegotiation, Suspension, or Termination Due to Change in Funding.**

If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:

- a. At DSHS's discretion, the Contract or Program Agreement may be renegotiated under the revised funding conditions.
- b. At DSHS's discretion, DSHS may give notice to Contractor to suspend performance when DSHS

DSHS General Terms and Conditions

determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.

- (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
 - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
 - (3) If the Contractor's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.
- c. DSHS may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.
17. **Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the CCLS Chief or designee has the authority to waive any term or condition of this Contract on behalf of DSHS.

Additional General Terms and Conditions – Interlocal Agreements:

18. **Disputes.** Both DSHS and the Contractor ("Parties") agree to work in good faith to resolve all conflicts at the lowest level possible. However, if the Parties are not able to promptly and efficiently resolve, through direct informal contact, any dispute concerning the interpretation, application, or implementation of any section of this Agreement, either Party may reduce its description of the dispute in writing, and deliver it to the other Party for consideration. Once received, the assigned managers or designees of each Party will work to informally and amicably resolve the issue within five (5) business days. If managers or designees are unable to come to a mutually acceptable decision within five (5) business days, they may agree to issue an extension to allow for more time.

If the dispute cannot be resolved by the managers or designees, the issue will be referred through each Agency's respective operational protocols, to the Secretary of DSHS ("Secretary") and the Contractor's Agency Head ("Agency Head") or their deputies or designated delegates. Both Parties will be responsible for submitting all relevant documentation, along with a short statement as to how they believe the dispute should be settled, to the Secretary and Agency Head.

Upon receipt of the referral and relevant documentation, the Secretary and Agency Head will confer to consider the potential options of resolution, and to arrive at a decision within fifteen (15) business days. The Secretary and Agency Head may appoint a review team, a facilitator, or both, to assist in the resolution of the dispute. If the Secretary and Agency Head are unable to come to a mutually acceptable decision within fifteen (15) business days, they may agree to issue an extension to allow for more time.

DSHS General Terms and Conditions

The final decision will be put in writing, and will be signed by both the Secretary and Agency Head. If the Agreement is active at the time of resolution, the Parties will execute an amendment or change order to incorporate the final decision into the Agreement. The decision will be final and binding as to the matter reviewed and the dispute shall be settled in accordance with the terms of the decision.

If the Secretary and Agency Head are unable to come to a mutually acceptable decision, the Parties will request intervention by the Governor, per RCW 43.17.330, in which case the governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute.

Both Parties agree that, the existence of a dispute notwithstanding, the Parties will continue without delay to carry out all respective responsibilities under this Agreement that are not affected by the dispute.

19. Hold Harmless.

- a. The Contractor shall be responsible for and shall hold DSHS harmless from all claims, loss, liability, damages, or fines arising out of or relating to the Contractor's, or any Subcontractor's, performance or failure to perform this Agreement, or the acts or omissions of the Contractor or any Subcontractor. DSHS shall be responsible for and shall hold the Contractor harmless from all claims, loss, liability, damages, or fines arising out of or relating to DSHS' performance or failure to perform this Agreement.
- b. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.

20. Ownership of Material.

Material created by the Contractor and paid for by DSHS as a part of this Contract shall be owned by DSHS and shall be "work made for hire" as defined by Title 17 USCA, Section 101. This material includes, but is not limited to: books; computer programs; documents; films; pamphlets; reports; sound reproductions; studies; surveys; tapes; and/or training materials. Material which the Contractor uses to perform the Contract but is not created for or paid for by DSHS is owned by the Contractor and is not "work made for hire"; however, DSHS shall have a perpetual license to use this material for DSHS internal purposes at no charge to DSHS, provided that such license shall be limited to the extent which the Contractor has a right to grant such a license.

21. Subrecipients.

- a. General. If the Contractor is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the Contractor shall:
 - (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
 - (2) Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
 - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
 - (4) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;

DSHS General Terms and Conditions

- (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
 - (6) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to <https://ojp.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)
- b. Single Audit Act Compliance. If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:
- (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
 - (2) Follow-up and develop corrective action for all audit findings; in accordance with 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
- c. Overpayments. If it is determined by DSHS, or during the course of a required audit, that the Contractor has been paid unallowable costs under this or any Program Agreement, DSHS may require the Contractor to reimburse DSHS in accordance with 2 CFR Part 200.

22. Termination.

- a. Default. If for any cause, either party fails to fulfill its obligations under this Agreement in a timely and proper manner, or if either party violates any of the terms and conditions contained in this Agreement, then the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given 15 working days to correct the violation or failure. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice from the aggrieved party to the other party.
- b. Convenience. Either party may terminate this Interlocal Agreement for any other reason by providing 30 calendar days' written notice to the other party.
- c. Payment for Performance. If this Interlocal Agreement is terminated for any reason, DSHS shall only pay for performance rendered or costs incurred in accordance with the terms of this Agreement and prior to the effective date of termination.

- 23. Treatment of Client Property.** Unless otherwise provided, the Contractor shall ensure that any adult client receiving services from the Contractor has unrestricted access to the client's personal property. The Contractor shall not interfere with any adult client's ownership, possession, or use of the client's property. The Contractor shall provide clients under age eighteen (18) with reasonable access to their personal property that is appropriate to the client's age, development, and needs. Upon termination of the Contract, the Contractor shall immediately release to the client and/or the client's guardian or custodian all of the client's personal property.

DSHS General Terms and Conditions

Special Terms and Conditions

1. **Definitions Specific to Special Terms:** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
 - a. "Applicant(s)" means individuals submitting an application, a renewal or reporting a change for benefits or services.
 - b. "Assisting Agency" means community or faith based organizations, tribal, city, or county municipalities who provide trained employees or volunteers to help applicants complete and submit online applications through Washington Connection. These agencies must sign a Data Share Agreement with DSHS and each employee and volunteer of the agency with access to Applicant information must complete a DSHS non-disclosure form. Any reference to Assisting Agency includes the Assisting Agency's employees, agents, officers, subcontractors, third party contractors, volunteers, or directors.
 - c. "Authorized Representative" means someone designated by the Applicant to talk with DSHS about his/her benefits. This individual is authorized to act on the Applicant's behalf for eligibility purposes.
 - d. "Contractor Contact", referenced on page one of this agreement, means the person who handles the day-to-day duties related to this agreement. This person may or may not be the one who signs this agreement on behalf of the Contractor.
 - e. "Data" means the information that is exchanged as described by this Agreement that is specifically protected by law which may impose penalties for wrongful disclosure. This includes protected health information under the HIPAA Privacy Rule.
 - f. "ESA" means Economic Services Administration.
 - g. "SAW" means SecureAccess Washington. SAW is a single sign-on application gateway created by Washington State's Department of Information Services to access government services accessible via the Internet.
 - h. "Washington Connection" means the web-based benefit portal that provides access to a broad array of federal, state and local services and benefits to address basic needs.
2. **Purpose** – To allow an Assisting Agency to help Washington residents complete an online application to provide more effective access to available federal, state and local services through the Washington Connection benefit portal and carry out other activities designed to help them maintain eligibility. This agreement also includes contractors that submit paper applications to DSHS.
3. **Statement of Work** – The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:
 - a. The Assisting Agency listed on page one of this Data Share Agreement is the Contractor, and DSHS is the Data Provider in this agreement. In exchange for the receipt of information, the Contractor agrees to abide by the terms and conditions in this agreement.
 - (1) Anyone at the Contractor agency with access to Data will be required to read and complete a non-disclosure agreement annually. The Contractor must maintain these forms and make them available for inspection.
 - (2) When Contractors use Washington Connection for applications, DSHS will work with them to:
 - (a) Establish access to the DSHS Washington Connection and online application.

Special Terms and Conditions

(b) Establish a Washington Connection SAW account with either an Employee or a Supervisor access level:

- i. *Employee Access* allows the individual to view, edit and submit applications when the employee has provided direct access with the application through Washington Connection as part of their work at the Assisting Agency.
- ii. *Supervisor Access* includes all functions of the Employee Access plus the ability to: view, edit and submit all applications associated with employees assigned to the supervisor in the Washington Connection profile; add, modify, and delete employees; reassign applications between employees under the same supervisor, and request a summary page of all application status (submitted or incomplete) associated with the Assisting Agency.

(3) Consent Form and Use Limitation

(a) The Contractor must obtain a Consent form via Washington Connection with an e-signature from the Applicant before accessing any Applicant Information. The Contractor must keep any written DSHS consent form obtained from the Applicant onsite and provide them for inspection upon request.

- i. DSHS and the Contractor may need to share additional information to provide services, but at no time should the Consent be interpreted to:

(A) Designate the Contractor as an "Authorized Representative"

(B) Allow DSHS to share Applicant information not needed for the purposes under this agreement

(C) Allow DSHS to disclose documents or information from the Applicant's files or records for other purposes outside the scope of this agreement

b. Description of Data

Data is limited to:

(a) application data

(b) defined display of household benefit information available through the Washington Connection query system

c. Data Access or Transfer

(1) If applications are received through Washington Connection and the Applicant has indicated consent to share application data, a Contractor may view and print applications, reviews and change of circumstances forms saved or submitted through Washington Connection for 90 calendar days from the last activity day. Application statuses, "submitted" or "not submitted", are also available for 90 calendar days from the last activity day. Contractors submitting paper applications have no ability to view them online.

(2) If the correct client identification number or negative client identification number (includes a minus sign before the number) is entered into the Washington Connection query system, the successful query will result in the display of the following information for the listed head of

Special Terms and Conditions

household if that person is not registered in the Address Confidentiality Program (ACP):

(a) Application Status

A = approved

P = Pending

D = Denied

M = Pending Spenddown (with base period and remaining amount)

(b) Eligibility history (3 month rolling) from DSHS and/or HCA

(c) Benefit amount for cash and food assistance programs only

(d) Number in the household associated with cash, food and medical benefits

(e) Benefit end date for each certification period (cash, food, medical, and childcare)

(f) Child's name receiving childcare services

(g) Childcare provider name for each child

(h) Copayment amount for each child

(i) Gross earned income

(3) Requirements for Access

(a) Access to Data shall be limited to staff (including employees and volunteers) whose duties specifically require access to such Data in the performance of their assigned duties. Prior to making Data available to its staff, Contractor shall notify all such staff of the Use and Disclosure requirements.

(b) All staff accessing the data shall sign a Nondisclosure of Confidential Information form, or its replacement, each year and agree to adhere to the use and disclosure requirements. The signed, original form and a regularly updated list of staff with access to the Data shall be maintained by the Contractor and submitted to the Data Provider upon request.

(c) The Contractor must remind staff annually of nondisclosure requirements and make available to DSHS upon request evidence that they have reminded all staff with access to Applicant data of the limitations, use or publishing of data.

(d) The Contractor must immediately notify the DSHS contact person listed on page one when any staff with access to the Data is terminated from employment or when his or her job duties no longer require access to Data.

d. Limitations on Use of Data

If the Data and analyses generated by the Contractor contain Confidential Information about DSHS Applicants, then any and all reports utilizing these Data shall be subject to review and approval by the Data Provider prior to publication in any medium or presentation in any forum.

Special Terms and Conditions

4. Data Security

- a. Violations of the Nondisclosure provisions of this agreement may result in criminal or civil penalties. Violation is a gross misdemeanor under RCW 7A.04.060, punishable by imprisonment of not more than one year and/or a fine not to exceed five thousand dollars. Sanctions also may apply under other state and federal law, including civil and criminal penalties for violations of the HIPAA Privacy and Security rules.
- b. The Contractor shall take reasonable precautions to secure against unauthorized physical and electronic access to Applicant Information. Data shall be protected in a manner that prevents unauthorized persons, including the general public, from access by computer, remote terminal, or other means.
- c. Contractor shall notify the DSHS contact designated on the contract verbally and in writing of the compromise or suspected compromise of the security or privacy of data within one (1) business day and to work with DSHS to assess additional steps to be taken. The Contractor shall be responsible to comply with legal requirements, provide notification of clients as needed and for any costs associated mitigating the breach.

5. Insurance.

The Contractor shall at all times comply with the following insurance requirements.

- a. Professional Liability Insurance (PL)

If the Contractor provides professional services, either directly or indirectly, the Contractor shall maintain Professional Liability Insurance, including coverage for losses caused by errors and omissions, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000.

- b. Evidence of Coverage

The Contractor shall submit Certificates of Insurance to DSHS for each coverage required of the Contractor under the Contract. The Contractor shall submit the Certificates of Coverage to Central Contract Services, Post Office Box 45811, Olympia, Washington 98504-5811, or via email to CCSContractsCounsel@dsht.wa.gov. Each Certificate of Insurance shall be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Contract. The Certificate of Insurance for each required policy shall reference the DSHS Contract Number for the Contract. Material Changes

The insurer shall give DSHS Central Contract Services forty-five (45) days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the insurer shall give DSHS Central Contract Services 10 days advance notice of cancellation.

- c. General

By requiring insurance, the State of Washington and DSHS do not represent that the coverage and limits specified will be adequate to protect the Contractor. Such coverage and limits shall not be construed to relieve the Contractor from liability in excess of the required coverage and limits and shall not limit the Contractor's liability under the indemnities and reimbursements granted to the State and DSHS in this Contract. All insurance provided in compliance with this Contract shall be

Special Terms and Conditions

primary as to any other insurance or self-insurance programs afforded to or maintained by the State. The Contractor waives all rights against the State of Washington and DSHS for the recovery of damages to the extent they are covered by insurance.

6. Inspection.

- a. These inspection rights supersede the general terms and conditions of this agreement. The Contractor shall, at no cost, provide DSHS and the Community Services Division Washington Connection Community Partnership Program with reasonable access to Contractor's place of business, Contractor's records, and DSHS client records, wherever located, as they relate to this agreement. These inspection rights are intended to allow the Program to monitor, audit, and evaluate the Contractor's compliance regarding these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.
- b. The Contractor will receive a self-assessment via email no less than once every four (4) years. The self-assessment and other supporting documents will be provided by the DSHS contact listed on page one (1,) or their designee. The self-assessment is meant to ensure compliance with:
 - (a) Annual review, signing, and retention of Nondisclosure Agreements;
 - (b) Proof of current liability insurance;
 - (c) Review of active Washington Connection Partner Account users, access, and privileges;
 - (d) Confidentiality and Nondisclosure through Client Search and internal consent
- c. The Contractor shall complete and return the self-assessment within the timeframe provided by the DSHS contact listed on page one (1,) or their designee (not to exceed 30 calendar days.)

7. Confidentiality and Nondisclosure

- a. Both parties may use Personal Information and other information or Data gained by reason of this Agreement only for the purposes of this Agreement.
- b. The data to be shared under this agreement is confidential in nature and is subject to state and federal confidentiality requirement that bind the Contractor, its employees, and its subcontractors to protect the confidentiality of the personal information contained in ESA data. Contractors may use personal data and other data gained by reason of this agreement only for the purpose of this agreement.
- c. The Contractor shall maintain the confidentiality of personal data in accordance with state and federal laws, and shall have adequate policies and procedures in place to ensure compliance with confidentiality requirements, including restrictions on re-disclosure.
- d. Neither party shall link the Data with Personal Information or individually identifiable data from any other source nor re-disclose or duplicate the Data unless specifically authorized to do so in this Agreement.

8. Consideration

There is no cost to either party as each will pay for its own costs to perform this contract.

Special Terms and Conditions

9. Payment

- a. The Contractor will receive the information provided under this agreement at no charge. Each party shall be responsible for any expenses incurred in providing or receiving information.
- b. The Contractor is responsible for any costs associated with accessing Applicant data. This includes any costs for hardware/software upgrades, and costs to improve any systems or processors that will enable the Contractor to access the data.

10. Compensation

- a. The Contractor shall not charge the applicant for services or time rendered while assisting with application, renewal, or reporting changes to the Department of Social and Health Services
- b. If the applicant requests additional services not included herewith, these services may be subject to fees and should be authorized in writing and signed by the applicant and Contractor under the auspice of separate agreement.

11. Disputes

Either party may submit a request for resolution of a Contract dispute (rates set by law, regulation or DSHS policy are not disputable). The requesting party shall submit a written statement identifying the issue(s) in dispute and the relative positions of the parties. A request for a dispute resolution must include the Contractors name, address, and Contract number, and be mailed to the address listed below within 30 calendar days after the party could reasonably be expected to have knowledge of the issue in dispute.

DSHS/Community Services Division
PO Box 45470
Olympia, WA 98504-5470
Attn. Contracts Unit

12. Contractor Information

The Contractor shall forward to the DSHS Contact person named on page one (1) of this contract (or successor) within ten (10) working days, any information concerning the Contractor's contact person. This would be the person who handles the daily operations regarding this contract. Changes include a change of contractor business name, contractor contact name, address, telephone number, fax number, e-mail address, business status and/or names of staff who are current state employees.

Exhibit A – Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
 - a. “AES” means the Advanced Encryption Standard, a specification of Federal Information Processing Standards Publications for the encryption of electronic data issued by the National Institute of Standards and Technology (<http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.197.pdf>).
 - b. “Authorized Users(s)” means an individual or individuals with a business need to access DSHS Confidential Information, and who has or have been authorized to do so.
 - c. “Business Associate Agreement” means an agreement between DSHS and a contractor who is receiving Data covered under the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996. The agreement establishes permitted and required uses and disclosures of protected health information (PHI) in accordance with HIPAA requirements and provides obligations for business associates to safeguard the information.
 - d. “Category 4 Data” is data that is confidential and requires special handling due to statutes or regulations that require especially strict protection of the data and from which especially serious consequences may arise in the event of any compromise of such data. Data classified as Category 4 includes but is not limited to data protected by: the Health Insurance Portability and Accountability Act (HIPAA), Pub. L. 104-191 as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), 45 CFR Parts 160 and 164; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 CFR Part 99; Internal Revenue Service Publication 1075 (<https://www.irs.gov/pub/irs-pdf/p1075.pdf>); Substance Abuse and Mental Health Services Administration regulations on Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2; and/or Criminal Justice Information Services, 28 CFR Part 20.
 - e. “Cloud” means data storage on servers hosted by an entity other than the Contractor and on a network outside the control of the Contractor. Physical storage of data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personal files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iTunes, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, and Rackspace.
 - f. “Encrypt” means to encode Confidential Information into a format that can only be read by those possessing a “key”; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
 - g. “FedRAMP” means the Federal Risk and Authorization Management Program (see www.fedramp.gov), which is an assessment and authorization process that federal government agencies have been directed to use to ensure security is in place when accessing Cloud computing products and services.
 - h. “Hardened Password” means a string of at least eight characters containing at least three of the following four character classes: Uppercase alphabetic, lowercase alphabetic, numeral, and special characters such as an asterisk, ampersand, or exclamation point.

- i. “Mobile Device” means a computing device, typically smaller than a notebook, which runs a mobile operating system, such as iOS, Android, or Windows Phone. Mobile Devices include smart phones, most tablets, and other form factors.
- j. “Multi-factor Authentication” means controlling access to computers and other IT resources by requiring two or more pieces of evidence that the user is who they claim to be. These pieces of evidence consist of something the user knows, such as a password or PIN; something the user has such as a key card, smart card, or physical token; and something the user is, a biometric identifier such as a fingerprint, facial scan, or retinal scan. “PIN” means a personal identification number, a series of numbers which act as a password for a device. Since PINs are typically only four to six characters, PINs are usually used in conjunction with another factor of authentication, such as a fingerprint.
- k. “Portable Device” means any computing device with a small form factor, designed to be transported from place to place. Portable devices are primarily battery powered devices with base computing resources in the form of a processor, memory, storage, and network access. Examples include, but are not limited to, mobile phones, tablets, and laptops. Mobile Device is a subset of Portable Device.
- l. “Portable Media” means any machine readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tapes, optical discs (CDs or DVDs), flash memory (thumb drive) devices, external hard drives, and internal hard drives that have been removed from a computing device.
- m. “Secure Area” means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through use of a key, card key, combination lock, or comparable mechanism. Secure Areas may include buildings, rooms or locked storage containers (such as a filing cabinet or desk drawer) within a room, as long as access to the Confidential Information is not available to unauthorized personnel. In otherwise Secure Areas, such as an office with restricted access, the Data must be secured in such a way as to prevent access by non-authorized staff such as janitorial or facility security staff, when authorized Contractor staff are not present to ensure that non-authorized staff cannot access it.
- n. “Trusted Network” means a network operated and maintained by the Contractor, which includes security controls sufficient to protect DSHS Data on that network. Controls would include a firewall between any other networks, access control lists on networking devices such as routers and switches, and other such mechanisms which protect the confidentiality, integrity, and availability of the Data.
- o. “Unique User ID” means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.

2. **Authority.** The security requirements described in this document reflect the applicable requirements of Standard 141.10 (<https://ocio.wa.gov/policies>) of the Office of the Chief Information Officer for the state of Washington, and of the DSHS Information Security Policy and Standards Manual. Reference material related to these requirements can be found here: <https://www.dshs.wa.gov/ffa/keeping-dshs-client-information-private-and-secure>, which is a site developed by the DSHS Information Security Office and hosted by DSHS Central Contracts and Legal Services.

3. **Administrative Controls.** The Contractor must have the following controls in place:

- a. A documented security policy governing the secure use of its computer network and systems, and

which defines sanctions that may be applied to Contractor staff for violating that policy.

- b. If the Data shared under this agreement is classified as Category 4, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for that Category 4 Data.
- c. If Confidential Information shared under this agreement is classified as Category 4, the Contractor must have a documented risk assessment for the system(s) housing the Category 4 Data.

4. Authorization, Authentication, and Access. In order to ensure that access to the Data is limited to authorized staff, the Contractor must:

- a. Have documented policies and procedures governing access to systems with the shared Data.
- b. Restrict access through administrative, physical, and technical controls to authorized staff.
- c. Ensure that user accounts are unique and that any given user account logon ID and password combination is known only to the one employee to whom that account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on a system housing the Data based solely on the logon ID used to perform the action.
- d. Ensure that only authorized users are capable of accessing the Data.
- e. Ensure that an employee's access to the Data is removed immediately:
 - (1) Upon suspected compromise of the user credentials.
 - (2) When their employment, or the contract under which the Data is made available to them, is terminated.
 - (3) When they no longer need access to the Data to fulfill the requirements of the contract.
- f. Have a process to periodically review and verify that only authorized users have access to systems containing DSHS Confidential Information.
- g. When accessing the Data from within the Contractor's network (the Data stays within the Contractor's network at all times), enforce password and logon requirements for users within the Contractor's network, including:
 - (1) A minimum length of 8 characters, and containing at least three of the following character classes: uppercase letters, lowercase letters, numerals, and special characters such as an asterisk, ampersand, or exclamation point.
 - (2) That a password does not contain a user's name, logon ID, or any form of their full name.
 - (3) That a password does not consist of a single dictionary word. A password may be formed as a passphrase which consists of multiple dictionary words.
 - (4) That passwords are significantly different from the previous four passwords. Passwords that increment by simply adding a number are not considered significantly different.
- h. When accessing Confidential Information from an external location (the Data will traverse the Internet or otherwise travel outside the Contractor's network), mitigate risk and enforce password and logon requirements for users by employing measures including:

- (1) Ensuring mitigations applied to the system don't allow end-user modification.
 - (2) Not allowing the use of dial-up connections.
 - (3) Using industry standard protocols and solutions for remote access. Examples would include RADIUS and Citrix.
 - (4) Encrypting all remote access traffic from the external workstation to Trusted Network or to a component within the Trusted Network. The traffic must be encrypted at all times while traversing any network, including the Internet, which is not a Trusted Network.
 - (5) Ensuring that the remote access system prompts for re-authentication or performs automated session termination after no more than 30 minutes of inactivity.
 - (6) Ensuring use of Multi-factor Authentication to connect from the external end point to the internal end point.
- i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, face recognition, iris scan) or token (software, hardware, smart card, etc.) in that case:
 - (1) The PIN or password must be at least 5 letters or numbers when used in conjunction with at least one other authentication factor
 - (2) Must not be comprised of all the same letter or number (11111, 22222, aaaaa, would not be acceptable)
 - (3) Must not contain a "run" of three or more consecutive numbers (12398, 98743 would not be acceptable)
 - j. If the contract specifically allows for the storage of Confidential Information on a Mobile Device, passcodes used on the device must:
 - (1) Be a minimum of six alphanumeric characters.
 - (2) Contain at least three unique character classes (upper case, lower case, letter, number).
 - (3) Not contain more than a three consecutive character run. Passcodes consisting of 12345, or abcd12 would not be acceptable.
 - k. Render the device unusable after a maximum of 10 failed logon attempts.

5. Protection of Data. The Contractor agrees to store Data on one or more of the following media and protect the Data as described:

- a. **Hard disk drives.** For Data stored on local workstation hard disks, access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.
- b. **Network server disks.** For Data stored on hard disks mounted on network servers and made available through shared folders, access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has

authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secure Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data, as outlined below in Section 8 Data Disposition, may be deferred until the disks are retired, replaced, or otherwise taken out of the Secure Area.

- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secure Area. When not in use for the contracted purpose, such discs must be Stored in a Secure Area. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secure Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secure Area which is only accessible to authorized personnel. When not in use, such records must be stored in a Secure Area.
- f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor's staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.
- g. **Data storage on portable devices or media.**
 - (1) Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:
 - (a) Encrypt the Data.
 - (b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.

- (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.
- (d) Apply administrative and physical security controls to Portable Devices and Portable Media by:
 - i. Keeping them in a Secure Area when not in use,
 - ii. Using check-in/check-out procedures when they are shared, and
 - iii. Taking frequent inventories.

- (2) When being transported outside of a Secure Area, Portable Devices and Portable Media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.

h. Data stored for backup purposes.

- (1) DSHS Confidential Information may be stored on Portable Media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.

- (2) Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.

i. Cloud storage. DSHS Confidential Information requires protections equal to or greater than those specified elsewhere within this exhibit. Cloud storage of Data is problematic as neither DSHS nor the Contractor has control of the environment in which the Data is stored. For this reason:

- (1) DSHS Data will not be stored in any consumer grade Cloud solution, unless all of the following conditions are met:
 - (a) Contractor has written procedures in place governing use of the Cloud storage and Contractor attests in writing that all such procedures will be uniformly followed.
 - (b) The Data will be Encrypted while within the Contractor network.
 - (c) The Data will remain Encrypted during transmission to the Cloud.
 - (d) The Data will remain Encrypted at all times while residing within the Cloud storage solution.
 - (e) The Contractor will possess a decryption key for the Data, and the decryption key will be possessed only by the Contractor and/or DSHS.

(f) The Data will not be downloaded to non-authorized systems, meaning systems that are not on either the DSHS or Contractor networks.

(g) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User and within either the DSHS or Contractor's network.

(2) Data will not be stored on an Enterprise Cloud storage solution unless either:

(a) The Cloud storage provider is treated as any other Sub-Contractor, and agrees in writing to all of the requirements within this exhibit; or,

(b) The Cloud storage solution used is FedRAMP certified.

(3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPAA), the Cloud provider must sign a Business Associate Agreement prior to Data being stored in their Cloud solution.

6. System Protection. To prevent compromise of systems which contain DSHS Data or through which that Data passes:

a. Systems containing DSHS Data must have all security patches or hotfixes applied within 3 months of being made available.

b. The Contractor will have a method of ensuring that the requisite patches and hotfixes have been applied within the required timeframes.

c. Systems containing DSHS Data shall have an Anti-Malware application, if available, installed.

d. Anti-Malware software shall be kept up to date. The product, its anti-virus engine, and any malware database the system uses, will be no more than one update behind current.

7. Data Segregation.

a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.

(1) DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS Data. And/or,

(2) DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,

(3) DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,

(4) DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.

(5) When stored as physical paper documents, DSHS Data will be physically segregated from non-DSHS data in a drawer, folder, or other container.

- b. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

8. **Data Disposition.** When the contracted work has been completed or when the Data is no longer needed, except as noted above in Section 5.b, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

Data stored on:	Will be destroyed by:
Server or workstation hard disks, or Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or Degaussing sufficiently to ensure that the Data cannot be reconstructed, or Physically destroying the disk
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm, provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

9. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the DSHS Privacy Officer at dshsprivacyofficer@dshs.wa.gov. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.
10. **Data shared with Subcontractors.** If DSHS Data provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the subcontractor must be submitted to the DSHS Contact specified for this contract for review and approval.