

**CHEHALIS CITY COUNCIL AGENDA**  
 CITY HALL  
 350 N MARKET BLVD | CHEHALIS, WA 98532

Anthony E. Ketchum, Sr.  
 Mayor

Jerry Lord, District 1  
 Daryl J. Lund, District 2  
 Dr. Isaac S. Pope, District 4

Robert J. Spahr, Mayor Pro Tem, Position at Large No. 3  
 Kevin Carns, Position at Large No. 2  
 Kate McDougall, Position at Large No. 1

**Regular Meeting of Monday, August 8, 2022**  
**5:00 pm**

***To access this meeting via Zoom:***

Meeting ID: 834 4212 6653

Pass Code: 674890

1. Call to Order (Mayor Ketchum)
2. Pledge of Allegiance (Mayor Ketchum)
3. Approval of Agenda (Mayor Ketchum)

**PRESENTATIONS**

4. Presentation by Experience Chehalis (Annalee Tobey)

**CONSENT CALENDAR**

ADMINISTRATION RECOMMENDATION	PAGE
APPROVE	1
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APPROVE	9
APPROVE	13
APPROVE	33

5. Minutes of the Special City Council Meeting of July 25, 2022 (City Clerk)
6. Minutes of the Regular City Council Meeting of July 25, 2022 (City Clerk)
7. Vouchers and Transfers – Accounts Payable in the Amount of \$298,471.55 Dated July 29, 2022 (City Manager, Finance Director)
8. Vouchers and Transfers – Payroll in the Amount of \$844,180.69 Dated July 29, 2022 (City Manager, Finance Director)
9. Consolidation of Utility Franchise Agreements with Lewis County (Streets Superintendent)
10. Department of Ecology Grant for Flood Notification Equipment (Public Works Director)

**CITIZENS BUSINESS (PUBLIC COMMENT)**

Individuals wishing to provide public comments in general and on agenda items should submit comments by 4:00 pm on the day of the meeting. All comments received will be acknowledged by the Mayor under Citizens Business of this meeting agenda. Please use the following form to submit comments – <https://www.ci.chehalis.wa.us/contact>. If you do not have computer access or would prefer to submit a comment verbally, please contact City Clerk Kassi Mackie at 360-345-1042 or at [kmackie@ci.chehalis.wa.us](mailto:kmackie@ci.chehalis.wa.us). Public comments will be limited to five (5) minutes.

<b>NEW BUSINESS</b>	<b>ADMINISTRATION RECOMMENDATION</b>	<b>PAGE</b>
11. <u>2021 Transportation Benefit District Annual Report</u> (Streets Superintendent)	APPROVE	59
12. <u>Addendum #3 to Lease with SERJ Car Wash, LLC</u> (Airport Operations Coordinator)	APPROVE	67
13. <u>Resolution No. 09-2022: Interlocal Agreement with Lewis County Sewer District #4</u> (Building and Planning Manager)	APPROVE	71
14. <u>First and Final Reading of Ordinance No. 1033-B: Amending Chapter 7.04 of the Chehalis Municipal Code</u> (City Attorney, Court Administrator)	APPROVE	81

<b>ADMINISTRATION AND CITY COUNCIL REPORTS</b>	<b>ADMINISTRATION RECOMMENDATION</b>	<b>PAGE</b>
15. <u>Administration Reports</u> a. City Manager Update (City Manager)	INFORMATION ONLY	- - -
16. <u>Councilor Reports/Committee Updates</u> (City Council)	INFORMATION ONLY	- - -

**EXECUTIVE SESSION**

- 17. Pursuant to RCW:
  - a. 42.30.110(1)(c) – Sale/Lease of Real Estate

**THE CITY COUNCIL MAY ADD AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON THIS AGENDA.**

**NEXT SPECIAL CITY COUNCIL MEETING**  
MONDAY, AUGUST 15, 2022- 5:00 P.M.

**NEXT REGULAR CITY COUNCIL MEETING**  
MONDAY, AUGUST 22, 2022- 5:00 P.M.

**Chehalis City Council**  
Special Meeting Minutes  
July 25, 2022  
4:00 p.m.

**Council Present:** Mayor Ketchum, Councilmember McDougall, Councilmember Pope, Councilmember Spahr, Councilmember Lord, Councilmember Carns (virtual attendance), Councilmember Lund (virtual attendance)

**Council Absent:**

**Staff Present:** Jill Anderson, City Manager; Tammy Baraconi, Building and Planning Manager; Kassi Mackie, City Clerk; Devlan Pool, Wastewater Supervisor; Erin Hillier, City Attorney; Josh McDrummond, Code Enforcement Officer

**Public Present:** None

**WORKSHOP**

1. **Discussion of Subdivision Code Updates:**

Building and Planning Manager Tammy Baraconi presented on proposed changes to the subdivision code.

Council provided suggested additional revisions to incorporate into the forthcoming ordinance amending the Chehalis Municipal Code regarding subdivisions. No final action was taken.

**ADJOURNMENT**

***Mayor Ketchum adjourned the meeting at 4:52 p.m.***

\_\_\_\_\_  
Anthony Ketchum, Sr., Mayor

\_\_\_\_\_  
Attest: Kassi Mackie, City Clerk

**Chehalis City Council**  
Regular Meeting Minutes  
July 25, 2022  
5:00 p.m.

**Council Present:** Mayor Ketchum, Councilmember McDougall, Councilmember Pope, Councilmember Lord, Councilmember Spahr, Councilmember Carns (virtual attendance), Councilmember Lund (virtual attendance)

**Council Absent:**

**Staff Present:** Jill Anderson, City Manager; Kassi Mackie, City Clerk; Jud Riddle, Interim Water Supervisor; Erin Hillier, City Attorney; Randy Kaut, Police Chief; Cassie Frazier, Administrative Assistant; Chun Saul, Finance Director; Brandon Rakes, Airport Operations Coordinator

**Public Present:** None

1. **Call to Order:**  
Mayor Ketchum called the meeting to order at 5:00 p.m.
2. **Pledge of Allegiance**  
Councilmember Spahr led the flag salute.
3. **Approval of Agenda**  
*A motion was made by Councilmember Spahr, seconded by Councilmember McDougall to approve the agenda as presented.*

**CONSENT CALENDAR**

4. Minutes of the Regular City Council Meeting of July 11, 2022
5. Vouchers and Transfers – Accounts Payable in the Amount of \$793,017.25 Dated July 15, 2022

*A motion was duly made and passed approving the items on the Consent Calendar as though acted on individually.*

**CITIZENS BUSINESS**

**UNFINISHED BUSINESS**

**NEW BUSINESS**

6. **2022 Quarter 2 Financial Report**  
Finance Director Chun Saul presented.

*No action was required on this item.*

7. **Contract Change Order No. 1 to Above Ground Fuel Storage Project**  
Airport Operations Coordinator Brandon Rakes provided a brief overview of the purpose of Change Order No. 1.

*A motion was made by Councilmember Spahr, seconded by Councilmember Lord to approve Change Order No. 1 in the amount of \$130,204.40 with Quigg Bros., Inc. and to approve the City Manager to execute the documents required to effect all changes required. The motion carried unanimously.*

#### **ADMINISTRATION AND CITY COUNCIL REPORTS**

8. **City Manager Update**  
City Manager Anderson provided a verbal report regarding the Chehalis River Basin Flood Authority and the collaboration with the City of Chehalis on a long-term plan for the area. Manager Anderson also participated in a meeting regarding the upcoming ChehalisFest.

9. **Councilor Reports/Committee Updates**  
Mayor Ketchum provided a verbal report.

Councilmember McDougall provided a verbal report.

#### **EXECUTIVE SESSION**

10. **Sale/Lease of Real Estate**  
**Collective Bargaining**

*Mayor Ketchum adjourned the regular meeting and convened the executive session at 5:41 p.m.*

*Mayor Ketchum reconvened the regular meeting at 7:00 p.m. to announce an additional 15 minutes was required in executive session. Mayor Ketchum then adjourned the regular meeting at 7:00 p.m. and reconvened executive session until 7:15 p.m.*

*Mayor Ketchum reconvened the regular meeting at 7:15 p.m. to announce an additional 15 minutes was required in executive session. Mayor Ketchum adjourned the regular meeting at 7:15 p.m. and reconvened the executive session until 7:30 p.m.*

*Mayor Ketchum adjourned the executive session and reconvened the regular meeting at 7:30 p.m.*

#### **ADJOURNMENT**

*Mayor Ketchum adjourned the meeting at 7:31 p.m.*

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Anthony Ketchum, Sr., Mayor

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Attest: Kassi Mackie, City Clerk

**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Chun Saul, Finance Director  
Clare Roberts, Accounting Tech II

**MEETING OF:** August 8, 2022

**SUBJECT:** 2022 Vouchers and Transfers – Accounts Payable in the Amount of \$298,471.55

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**ISSUE**

City Council approval is requested for 2022 Vouchers and Transfers dated July 29, 2022.

**DISCUSSION**

The July 29, 2022 Claim Vouchers have been reviewed by a committee of three councilors prior to the release of payments. The administration is requesting City Council approval for Claim Vouchers including Electronic Funds Transfer Checks No. 2198 - 2228 and Voucher Checks No. 134740 - 134836 in the amount of \$298,567.57 dated July 29, 2022, and Voided Check No. 134584 for the net total of \$298,471.55 as follows:

- \$ 102,777.19 from the General Fund
- \$ 21,218.75 from the Street Fund
- \$ 39,196.92 from the Transportation Benefit District Fund
- \$ 2777.40 from the LEOFF 1 OPEB Reserve Fund
- \$ 3,415.80 from the Federal Advance Grant Control Fund
- \$ 171.88 from the Public Facilities Reserve Fund
- \$ 26,113.59 from the Wastewater Fund
- \$ 52,570.78 from the Water Fund
- \$ 1,236.98 from the Storm & Surface Water Utility Fund
- \$ 48,896.88 from the Airport fund
- \$ 191.40 from the Firemen's Pension Fund
- \$ 298,567.57 Total for Vouchers for July 29, 2022

\$ < 96.02 > Voided check for July 26, 2022  
\$ 298,471.55 Net Total Transfers

**RECOMMENDATION**

It is recommended that the City Council approve the Claim Vouchers including Electronic Funds Transfer Checks No. 2198 - 2228 and Voucher Checks No. 134740 - 134836 in the amount of \$298,567.57 dated July 29, 2022, and Voided Check No. 134584 for the net total of \$298,471.55.

**SUGGESTED MOTION**

I move that the City Council approve the Claim Vouchers including Electronic Funds Transfer Checks No. 2198 - 2228 and Voucher Checks No. 134740 - 134836 in the amount of \$298,567.57 dated July 29, 2022, and Voided Check No. 134584 for the net total of \$298,471.55.



**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Chun Saul, Finance Director  
Deri-Lyn Stack, Payroll Accounting

**MEETING OF:** August 8, 2022

**SUBJECT:** Vouchers and Transfers – Payroll in the Amount of \$844,180.69

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**ISSUE**

City Council approval is requested for Payroll Vouchers and Transfers dated July 29, 2022.

**DISCUSSION**

The administration requests City Council approval for Payroll Vouchers No. 42037-42059, Direct Deposit Payroll Vouchers No. 15094-15231, Electronic Federal Tax and DRS Pension/Deferred Comp Payments No. 415-423 dated July 29, 2022, in the amount of \$844,180.69, which include the transfer of:

- \$549,788.39 from the General Fund
- \$40,128.87 from the Street Fund
- \$293.82 from the Arterial Street Fund
- \$5,197.50 from the LEOFF1 OPEB Reserve Fund
- \$21,886.34 from the Federal Advance Grant Control
- \$93,082.40 from the Wastewater Fund
- \$87,216.85 from the Water Fund
- \$17,843.35 from the Storm & Surface Water Utility Fund
- \$28,743.17 from the Airport Fund

**RECOMMENDATION**

It is recommended that the City Council approve the July 29,2022 Payroll Vouchers No. 42037-42059, Direct Deposit Payroll Vouchers No. 15094-15231, Electronic Federal Tax and DRS Pension/Deferred Comp Payments No. 415-423 in the amount of \$844,180.69.

**SUGGESTED MOTION**

I move that the City Council approve the July 29,2022 Payroll Vouchers No. 42037-42059, Direct Deposit Payroll Vouchers No. 15094-15231, Electronic Federal Tax and DRS Pension/Deferred Comp Payments No. 415-423 in the amount of \$844,180.69.

I, THE UNDERSIGNED, OF THE CITY OF CHEHALIS WASHINGTON DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE PAYROLL-RELATED SERVICES HAVE BEEN RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF CHEHALIS, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

\_\_\_\_\_  
PAYROLL OFFICER

\_\_\_\_\_  
FINANCE DIRECTOR

CHECK NOS. 42037 THROUGH 42059, DIRECT DEPOSIT CHECK NOS. 15094 THROUGH 15231, ELECTRONIC FEDERAL TAX AND DRS PENSION/DEFERRED COMP PAYMENTS NOS. 415-423 ARE HEREBY APPROVED FOR PAYMENT IN THE TOTAL AMOUNT OF \$844,180.69 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
MAYOR

001	GENERAL FUND	549,788.39
003	STREET FUND	40,128.87
102	ARTERIAL STREET	293.82
115	LEOFF1 OPEB	5,197.50
199	FREDRAL ADVANCE GRANT	21,886.34
404	WASTEWATER FUND	93,082.40
405	WATER FUND	87,216.85
406	STORM & SURFACE UTIL FUND	17,843.35
407	AIRPORT FUND	<u>28,743.17</u>
	TOTAL	\$844,180.69

**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Jud Riddle, Street/Storm Superintendent

**MEETING OF:** August 8, 2022

**SUBJECT:** Consolidation and Renewal of Utility Franchise Agreements with Lewis County

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**ISSUE**

The City of Chehalis has seven separate franchise agreements with Lewis County, all with different expiration dates, that can be consolidated into one agreement.

**BACKGROUND**

Existing utility franchise agreements are nearing their end of term(s).

**DISCUSSION**

The City of Chehalis entered into a franchise agreement with Lewis County in April of 1974 for the purposes of operation and maintenance of City water and sewer utilities in the County right of way. As the City's infrastructure has grown within the County, additional agreements were added to cover the expanding areas. There are now seven franchise agreements with different expiration dates and each has a renewal fee.

- Twenty-year agreement term. Expiration May 6, 2022-Majority of County roads near Chehalis.
- Twenty-year agreement term. Expiration August 12, 2022-Area of LaBree and Rice Roads.
- Forty-nine year agreement term. Expiration April 1, 2023-Area of Coal Creek Road from National Ave.
- Forty-nine year agreement term. Expiration November 28, 2026-Area of Jackson Hwy and Taylor Road.
- Two believed forty-nine year agreement terms. Expiration December 5, 2026-Area of Oechli (Lone Star dr.) and Bishop Road.
- Forty-nine year agreement term. Expiration March 23, 2027-Area of Jackson Hwy and North Fork Road.

To facilitate cost savings in fees and staff time, City staff has collaborated with Lewis County to consolidate the seven separate agreements into one.

**FISCAL IMPACT**

There is no negative fiscal impact. Possible savings in renewal fees. \$500 +/- Each

**RECOMMENDATION**

It is recommended that the City Council approve the consolidation of franchise agreements into one agreement.

**SUGGESTED MOTION**

Move to approve the consolidation of franchise agreements into one agreement.

AFTER RECORDING RETURN TO:  
Lewis County Public Works Dept.  
2025 NE Kresky Ave  
Chehalis, WA. 98532

Tax Parcel Number: N/A Road Right of Way

## ***NONEXCLUSIVE FRANCHISE AGREEMENT CITY OF CHEHALIS***

### **Section 1. Franchise**

**1.1 Definitions.** Terms as used throughout this Franchise shall have the same meanings given in Section 12.25.020 LCC and Section 12.20.020 LCC. Words not otherwise defined shall be given their common and ordinary meaning.

**1.2 Grant of Franchise.** Lewis County, a Washington municipal corporation and subdivision of the State (hereinafter “County”) hereby grants the **City of Chehalis** (hereinafter “Grantee”), a nonexclusive Franchise for the installation, construction, operation, and maintenance of water and sewer system facilities within the rights of way of unincorporated Lewis County. The following conditions shall apply to the Franchise granted herein:

- A. The Franchise granted shall not convey any right, title or interest in the rights of way but shall be deemed a Franchise only to use and occupy the rights of way for the limited purposes and term stated herein. The Franchise shall not convey any right, title, or interest in rights of way in which the County has an interest.
- B. The Franchise granted shall not authorize or excuse Grantee from securing such further easements, leases, permits, or other approvals as may be required to lawfully occupy and use the rights of way.
- C. The Franchise granted shall not be construed as any warranty of title or interest in any right of way; it does not provide the Grantee with any interest in any particular location within the right of way; and it does not confer rights other than as expressly provided in the grant hereof.
- D. No act, event, occurrence, or thing shall give Grantee any rights to occupy or use the rights of way permanently nor shall operate as an estoppel against the County.
- E. **This Franchise is granted subject to the terms and conditions contained in Chapter 12.20 LCC, Installation of Utilities on Lewis County rights of way, as they are now written or as later amended, which shall apply in addition to the provisions of this Franchise. Provisions of Chapter 12.20 LCC shall control over inconsistent terms contained in this Franchise; provided, however, that Section 3.2 of**

this Franchise, Release, Indemnity and Hold Harmless, shall control for this Franchise over inconsistent provisions of Chapter 12.20 LCC as is currently adopted.

- F. The matters contained in Grantee's Franchise application and all subsequent applications or proposals for extensions or renewals of this Franchise, except as inconsistent with law, regulations, or local ordinance, are hereby incorporated by reference.
- G. This Franchise is being granted for a water and sewer system facility for Grantee's use to provide domestic water and sewer services.
- H. Grantee shall comply with all applicable state and federal laws, including regulatory requirements of the WUTC, if applicable to Grantee.
- I. This grant of authority to provide the services described herein shall be limited solely to those services expressly described and no others. In the event of any ambiguity, this Franchise agreement shall be strictly construed as to the rights granted herein.

**1.3 Term of Franchise.** The term of this Nonexclusive Franchise shall be five (5) years from the date of this Franchise. This Franchise may be renewed, at the sole discretion of the County by resolution of the Board of County Commissioners, for one additional five (5) year period upon the written request of Grantee, such request to be submitted not more than two (2) years nor less than one hundred eighty (180) days prior to the expiration of the initial five (5) year term.

**1.4 Nonexclusive Franchise.** The Franchise granted herein shall be nonexclusive. The County specifically reserves the right to grant, at any time, such rights, permits, licenses, and/or franchises to other Persons to use the rights of way for similar or different purposes allowed hereunder as the County deems appropriate. Subject to this Franchise, Grantee shall not prevent or prohibit the County from constructing, altering, maintaining, or using any of said rights of way, or affect its jurisdiction over them or any part of them, the County having full power and authority to make all necessary changes, relocation, repairs, or maintenance of said rights of way as the County deems appropriate.

**1.5 Renewal Applications.** If Grantee desires to renew this Franchise, Grantee shall comply with Section 12.37.120 LCC.

**1.6 Renewal Determinations.** Within 120 business days after receiving a complete application for renewal, the Board shall make a determination on behalf of the County granting or denying the renewal application in whole or in part. If the renewal application is denied, the determination shall include the reasons for non-renewal. The criteria in Section 12.37.130 LCC shall apply when determining whether to grant or deny the application, and the Board may also consider Grantee's compliance with the requirements of Chapter 12.20 LCC, and this Franchise.

**1.7 Obligation to Cure as a Condition of Renewal.** This Franchise shall not be renewed until any ongoing violations or defaults in Grantee's performance of this Franchise, of the requirements of the Ordinance, and all applicable laws, statutes, codes, ordinances, rules, and

regulations have been cured; or a plan detailing the corrective action to be taken by Grantee has been approved by the Administrator. Failure to comply with the terms of an approved plan shall be grounds for non-renewal or immediate revocation of this Franchise.

**1.8 Franchise Territory.** The Franchise territory shall be that territory described in Exhibit A. The Franchise granted herein does not give or grant to Grantee the right, privilege, or authority to install water or sewer system facilities at any other location in the County. Grantee agrees not to install water or sewer system facilities at any other County location without written County approval.

**1.9 Amendment of Franchise for Territory Changes.** Should Grantee not be able to install a water and sewer system facility within the Franchise territory, Grantee shall request from the County, in writing, a deviation from the territory set out herein. If Grantee desires to extend or locate its utilities in rights of way which are not included in this Franchise, Grantee shall apply in writing for an amendment to the Franchise. If the County orders Grantee to locate or relocate its water and sewer system facilities in rights of way not included in this Franchise, the County shall grant a Franchise amendment for the territory change without further application.

**1.10 Right to Require Removal of Property.** At the expiration of this Franchise, and if Grantee has not obtained a new franchise from the County, the County shall have the right to require Grantee to remove all or any part of Grantee's water and sewer system facilities under this Franchise from the rights of way and restore the affected area, all at Grantee's expense. Removal and restoration shall be to the satisfaction of the County Engineer. If Grantee fails to do so, the County may perform the work or cause it to be done and collect the cost thereof from Grantee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all property of Grantee effective upon filing of the lien with the Lewis County Auditor.

## **Section 2. Operation in Rights of way**

### **2.1 Construction or Alteration.**

- A. Facilities shall be constructed, operated, and maintained in accordance with this Franchise and all applicable Federal, State, and County codes, rules, and regulations; including, but not limited to, Chapter 12.20 LCC. Grantee shall comply with all lawful County resolutions and ordinances regarding the acquisition of permits and/or such other items as may be required in order to construct, operate, and maintain its facilities. Grantee shall pay to the County all reasonable costs of granting or enforcing the provisions of this Franchise including, but not limited to, County fees related to the issuance of utility permits.
- B. Grantee shall not construct, maintain, repair, relocate, or remove its facilities within the rights of way without obtaining a utility permit. Applications for utility permits to construct Grantee's facilities shall be in compliance with the provisions of Chapter 12.20 LCC. As part of the permitting process, the County may impose such conditions and regulations as are necessary for the purpose of protecting any structures in such rights of way, proper restoration of such rights of way and

structures, the protection of the public, and the continuity of pedestrian or vehicular traffic. Such conditions may also include the provision of a construction schedule and maps showing the location of the facilities to be installed in the right of way. All work authorized and required hereunder shall be done in a safe, thorough, and workmanlike manner. All installations of equipment shall be permanent in nature, durable, and installed in accordance with good engineering practices.

- C. Within limits reasonably related to the County's role in protecting public health, safety, and welfare, the County may require that facilities be installed at a particular time, at a specific place, or in a particular manner as a condition of access to a particular right of way; may deny access if Grantee is not willing to comply with County's requirements; may remove, or require removal of, any facility that is not installed in compliance with the requirements established by the County; and may require Grantee to cooperate with others to minimize adverse impacts on the rights of way through joint trenching and other arrangements.

**2.2 Non-Interference.** In installing, constructing, operating, repairing, and maintaining its facilities, Grantee shall not interfere with the use of the rights of way by the County, the general public, or other Persons authorized to use or be present in or upon the rights of way. Work in the right of way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Grantee's facilities shall be constructed and maintained in such manner as not to interfere with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the rights of way by, or under, the County's authority. In the event of such interference, the County may require the removal or relocation of Grantee's facilities from the property in question at Grantee's expense.

**2.3 Construction Schedule and Notice of Work.** Unless otherwise provided herein, Grantee, or any Person acting on Grantee's behalf, shall comply with the notice provisions set out in Chapter 12.20 LCC.

**2.4 Traffic Control.** Grantee shall comply with the traffic control provisions set out in Chapter 12.20 LCC.

**2.5 Relocation or Removal of Facilities.** Chapter 12.20 LCC shall govern the relocation and removal of Grantee's facilities in the rights of way. .

**2.6 Consistency with Designated Use.** Notwithstanding this Franchise to use County rights of way, no right of way shall be used by Grantee if the County determines that such use is inconsistent with: (1) the terms and conditions of dedication or establishment of the right of way; (2) the present use of the right of way; or (3) applicable federal, state or local laws.

**2.7 Restoration of Rights of way.** Grantee shall comply with the restoration of rights of way conditions set out in Chapter 12.20 LCC.



**2.8 Restoration of Improvements.** Upon completion of any construction work, Grantee shall make restoration in accordance with Chapter 12.20 LCC.

**2.9 Rights of way and Other Public Property.** Grantee shall warrant any restoration work performed by or for Grantee in the right of way or on other public property for one (1) year. If restoration is not satisfactorily performed by the Grantee within a reasonable time, the County may, after 48 hours prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the cost of those repairs from the Grantee. The Grantee shall pay the County within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment.

**2.10 Facilities Maps.** Grantee shall provide the County with facilities maps in accordance with Section 12.20 LCC.

**2.11 As-Built Drawings.** If an Engineer's Certification is required under Chapter 12.20 LCC, then, in addition to the requirements of Section 2.10 of this Franchise regarding facilities maps, Grantee shall provide as-built drawings in accordance with Chapter 12.20 LCC.

**2.12 Aesthetic and Scenic Considerations.** Grantee shall comply with Chapter 12.20 LCC.

**2.13 Damage to Grantee's Facilities.** To the extent permitted by Washington law, the County shall not be liable for any damage to or loss of any of Grantee's facilities or any interruption in water and sewer system services within the rights of way as a result of or in connection with any emergency removal or relocation, public works, public improvements, construction, excavation, grading, filling, or work of any kind in the rights of way by or on behalf of the County or any Person under contract with the County, except for damage caused by the sole negligence of the County.

**2.14 Location of Facilities.** All water and sewer system facilities shall be constructed, installed, and located in accordance with Chapter 12.20 LCC. Consistent with any general County undergrounding policy or program now or hereafter developed, the County may require Grantee's participation in County-imposed undergrounding or related requirements at Grantee's expense. Grantee agrees to coordinate its underground installation and planning activities with the County's underground plan.

**2.15 Hazardous Substances.**

- A. Grantee shall comply with any and all applicable laws, statutes, regulations, and orders concerning hazardous substances relating to Grantee's facilities in the rights of way.
- B. Grantee agrees to indemnify the County against any claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the County, arising out of Grantee's release of hazardous substances caused by or related to the construction, operation or maintenance of Grantee's facilities.

**2.16 Notice to Private Property Owners.** Grantee shall give notice to private property owners of work on or adjacent to private property.

**2.17 County Use of Trenching.** The Grantee and the County recognize that situations may occur in the future where the County may desire to place its own cable or conduit in trenches or bores opened by the Grantee. The Grantee agrees to cooperate with the County in any construction by the Grantee that involves trenching or boring, provided that the County has first notified the Grantee in some manner that it is interested in sharing the trenches or bores in the area where the Grantee's construction is occurring. The Grantee shall allow the County to lay its cable or conduit in the Grantee's trenches and bores, provided the County shares in the cost of the trenching and boring on the same terms and conditions as the Grantee at that time shares the total cost of trenches and bores. The County shall be responsible for maintaining its respective cable or conduit buried in the Grantee's trenches and bores under this paragraph.

**2.18 Movement of Facilities for Other Franchise Holders.** If any removal, replacement, modification, or disconnection of the Grantee's pipelines is required to accommodate the construction, operation, or maintenance of the facilities or equipment of another County franchise holder, Grantee shall, after at least thirty (30) days' advance written notice, take action to effect the necessary changes requested by the responsible entity. Grantee may require that the costs associated with the removal or relocation be paid by the benefited party.

**2.19 Work of Contractors and Subcontractors.** Grantee's contractors and subcontractors shall be licensed and bonded in accordance with state law. Work by contractors and subcontractors is subject to the same restrictions, limitations, and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by it, shall ensure that all such work is performed in compliance with this Franchise and other applicable laws, and shall be jointly and severally liable for all damages and for correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors, or other persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other applicable laws governing the work performed by them.

**2.20 Inspection of Construction and Facilities.** The County may inspect any of Grantee's facilities, equipment, or construction at any time upon at least twenty-four (24) hours' notice, or, in case of emergency, upon demand without prior notice. The County shall have the right to charge generally applicable inspection fees therefor. If an unsafe condition is found to exist, the County, in addition to taking any other action permitted under applicable law, may order Grantee, in writing, to make necessary repairs and alterations forthwith to correct the unsafe condition by a stated date and time. The County has the right to correct, inspect, administer, and repair the unsafe condition if Grantee fails to do so, and to charge Grantee therefor.

**2.21 Stop Work.**

A. On notice from the County that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the County, or in violation of the terms of any applicable permits, laws, regulations, ordinances, or standards, the work shall immediately stop.

B. The stop work order shall:

1. Be in writing.
2. Be given to the Person doing the work, or posted on the work site.
3. Be sent to Grantee by overnight delivery at the address given herein.
4. Indicate the nature of the alleged violation or unsafe condition.
5. Establish conditions under which work may be resumed.

### **Section 3. Financial Provisions**

**3.1 Financial Security.** Pursuant to LCC 12.20 the County may require financial security to ensure completion of construction before any construction work is started by Grantee. Depending on the nature of the project planned by Grantee a Permit issued by the Public Works Department before construction starts may require a bond.

**3.2 Release, Indemnity and Hold Harmless.** Grantee shall indemnify, defend, and hold the County, its appointed and elected officials, agents, officers, and employees harmless from and against any and all claims, demands, liability, loss, cost, damage, or expense of any nature whatsoever including all costs and attorney's fees, made against the County, its agents, officers, or employees on account of injury, harm, death, or damage to persons or property arising out of or in connection with Grantee's construction, operation, use, or maintenance of Grantee's Facilities, except that such indemnification shall not extend to nor include any liability due to the sole negligence of the County, its elected and appointed officials, agents, officers, and employees acting within the scope of their employment.

Grantee shall indemnify, defend, and hold the County, its appointed and elected officials, agents, officers, and employees harmless from and against any and all claims, demands, liability, loss, cost, damage, or expense of any nature whatsoever including all costs and attorney's fees, made against the County on account of violation of any environmental laws applicable to the Facilities, or from any release of petroleum products or Hazardous Substances on or from the Facilities, except for any such claims, demands, liability, loss, cost, damage, or expense of any nature whatsoever including costs and attorney's fees caused by the sole negligence of the County, its elected and appointed officials, agents, officers or employees acting within the scope of their employment. This indemnity includes, but is not limited to: (a) liability for a governmental agency's costs of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's costs of responding to hazardous substances; and (d) liability for any costs of investigation, abatement, correction, or cleanup; or fines, penalties, or other damages arising under any environmental laws.

Grantee's indemnification obligations include assuming potential liability for actions brought by Grantee's own employees and the employees of Grantee's agents, representatives, contractors, and subcontractors even though Grantee might be immune under Title 51 RCW from direct suit brought by such employees. It is expressly agreed and understood that this assumption of potential liability for actions brought by the aforementioned employees is limited solely to claims against the County arising by virtue of Grantee's exercise of the rights set forth in this Agreement. The obligations of Grantee under this section have been mutually negotiated by the Parties, and Grantee acknowledges that the County would not enter into this Agreement without Grantee's waiver. To the extent required to provide this indemnification and this indemnification only, Grantee waives its immunity under Title 51 RCW as provided in RCW 4.24.115.

In the event any matter (for which the County intends to assert its rights under this Section 3.2) is presented to or filed with the County, the County shall promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such matter as it pertains to Grantee's responsibility to indemnify, defend, and hold harmless the County, its agents, officers, or employees. In the event any suit or action is started against the County based upon any such matter, the County shall likewise promptly notify Grantee thereof, and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election, as it pertains to Grantee's responsibility to indemnify, defend, and hold harmless the County, its agents, officers, or employees.

Acceptance by the County of any work performed by Grantee under this Agreement shall not be grounds for avoidance of this Section 3.2.

The provisions of this Section 3.2 shall survive the termination or expiration of this Agreement.

- 3.3 Insurance.** As a condition of this Franchise, Grantee shall secure and maintain the following liability insurance policies.
- A. Commercial General Liability insurance, and if necessary, Umbrella Liability insurance, which will cover bodily injury, property damage, and any other exposure which can be reasonably identified as potentially arising from Grantee's activities within the rights of way. The limit of liability shall not be less than two million dollars (\$2,000,000) each occurrence with a five million dollar (\$5,000,000) aggregate. The County, its elected and appointed officers, officials, employees, agents, and representatives shall be named as additional insureds with respect to Grantee's activities occurring within its rights of way. Coverage shall be comprehensive with respect to Grantee's activities within the Rights-of-Way and shall include completed operations, explosions, collapse, and underground hazards. Any insurance or self-insurance maintained by the County, its officers, officials, boards, commissions, employees, and agents shall be in excess of the Grantee's insurance and shall not contribute to it.
  - B. Business Automobile Liability insurance for owned, non-owned, and hired vehicles

with limits of not less than one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per occurrence.

- C. Workers' Compensation insurance as required by Title 51 RCW and Employer's Liability Coverage with a limit of not less than one million dollars (\$1,000,000).
- D. The insurance policies required by Section 3.3 shall be maintained at all times by Grantee. The insurer or Grantee shall notify the County at least thirty (30) days before the policy can be canceled by either party to be mailed to the Lewis County Public Works, Real Estate Services Division (2025 NE Kresky Ave., Chehalis, WA 98532) as well as the named insured. Grantee will be obligated to replace or renew the canceled or expiring policy and show proof in the form of a certificate of insurance, at least fifteen (15) days before the expiration or cancellation of the existing policy(ies).
- E. Grantee shall furnish the Real Estate Services Division with properly executed certificates of insurance naming Lewis County as primary, non-contributory additionally insured, or a signed policy endorsement which shall clearly evidence all insurance required in Section 3.3.
- F. Grantee or its agent will provide a copy of any and all insurance policies specified in this Franchise upon request of the Real Estate Services Manager.
- G. The insurance limits mandated for any insurance coverage required by this Franchise are not intended to be an indication of limits of exposure nor are they limitations on liability or indemnification.
- H. By acceptance of this Franchise, Grantee agrees that failure to procure or maintain the required insurance shall constitute a material breach of this Franchise and that the County may immediately terminate this Franchise or, at the County's discretion, procure or renew such insurance to protect the County's interests and be reimbursed by Grantee for all premiums paid in connection therewith.

**3.4 Compensation.** The Franchise granted hereunder is subject to the County's right, which is expressly reserved, to annually fix a fair and reasonable compensation for the authorization granted hereunder, and to reimburse the County's costs in connection with administration and oversight of this Franchise, and in connection with reviewing, inspecting, monitoring, and supervising the use and occupancy of the rights of way. Nothing herein shall prohibit the County and Grantee from agreeing upon the compensation to be paid.

This Franchise shall not be interpreted to prevent the County from imposing additional lawful conditions, including additional compensation conditions for use of the rights of way, should Grantee provide services other than water and sewer services.

**3.5 Reimbursement.** Except as provided in Subsection 3.4 C., Grantee shall reimburse the County within thirty (30) calendar days after receipt of written demand for all reasonable amounts paid and costs incurred by the County in relation to this Franchise or the enforcement thereof.

## **Section 4. Additional Franchise Provisions**

**4.1 Publication Costs.** Grantee shall assume the costs of publication associated with this Franchise as such publication is required by law.

### **4.2 Vacation.**

- A. If the County vacates all or a portion of any County rights of way which are subject to rights granted by this Franchise, and said vacation is for the purpose of acquiring the fee or other property interest in said rights of way for the use of the County in either its proprietary or governmental capacity, the Board may, at its option and by giving forty-five (45) days written notice to Grantee, terminate this Franchise with reference to any County rights of way so vacated, and the County shall not be liable for any damages or loss to Grantee by reason of such termination.
- B. Whenever a County right of way or any portion thereof is vacated upon a finding that it is not useful and the public will be benefited by the vacation, the County may retain an easement in respect to the vacated land for the construction, operation and maintenance of public utilities and services which at the time of the vacation are specifically authorized under this Franchise or physically located on a portion of the land being vacated, but only in accordance with the provisions of RCW 36.87.140. The County shall not be liable for any damages or loss to Grantee by reason of any such vacation.

**4.3 Eminent Domain.** This Franchise is subject to the power of eminent domain and the right of the Board or the people acting for themselves through the initiative or referendum process to repeal, amend, or modify this Franchise. In any proceeding under eminent domain, this Franchise itself shall have no value.

### **4.4 Revocation or Termination.**

- A. This Franchise may be revoked as provided in the Ordinance after notice, an opportunity to cure, and a hearing as provided in the Ordinance.
- B. In addition to Section 4.4 A. of this Franchise, upon failure of Grantee, after written notice, to perform properly and completely each term, condition, or obligation imposed upon it pursuant to this Franchise, the County may terminate this Franchise.
- C. At the expiration of the term of this Franchise or upon its revocation or termination, the County shall have the right to require Grantee to remove its water and sewer system facilities within ninety (90) days from the County rights of way. Grantee shall be liable for any costs incurred in removing the water or sewer pipeline of Grantee and restoring any County rights of way. In removing its facilities, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all rights of way, public places, and private property in as good condition as that prevailing prior to Grantee's removal of its facilities. The indemnification and insurance provisions and the letter of credit shall remain in full force and effect during the period of removal, and Grantee shall not be entitled to, and agrees not to request, compensation of any

sort therefor.

- D. If Grantee fails to remove its water or sewer system facilities to the County's satisfaction in the time frame required by the County, the County may perform the work and collect the cost thereof from Grantee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of Grantee effective upon filing of the lien with the County Auditor.
- E. A revocation or termination of this Franchise shall not prejudice any other remedy for breach of contract, damages, non-payment or otherwise which the County has under this Franchise or under law.

**4.5 Modification.** The County and Grantee reserve the right to modify the terms and conditions of this Franchise upon written agreement of both parties to such modification or in the exercise of the County's police power authority or other authority pursuant to applicable laws.

**4.6 Franchise Subject to Future County Ordinances and Regulations.** Nothing herein shall be deemed to restrict the County's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any valid ordinance made in the exercise of the County's police powers in the interest of public safety and for the welfare of the public. The County shall have the authority at all times to control by appropriate regulations the location, elevation, manner of construction, operation and maintenance of any water and sewer system facilities by Grantee. Grantee agrees to promptly conform to all such regulations as if they were in effect at the time this Franchise was executed by the County, unless compliance would cause Grantee to violate other requirements of law. In the event of a conflict between the provisions of this Franchise and any ordinance(s) enacted or action taken under the County's police power authority, such ordinance(s) or other exercise of police power shall take precedence over the provisions set forth herein.

**4.7 Assignments or Transfers.** Grantee shall comply with LCC 12.20 regarding assignments, lease, sharing, transfers, and transactions affecting direct or indirect interest or control. In no event shall a sale, lease, sharing, transfer, assignment, or disposal of ownership, interest, or control be approved without the transferee acknowledging the obligations under LCC 12.20, becoming a signatory to this Franchise, and assuming all rights and obligations hereunder; and assuming all other rights and obligations of the transferor to the County.

**4.8 Receivership and Foreclosure.**

- A. At the option of the County, subject to applicable law, this Franchise may be revoked one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee whether in a receivership, reorganization, bankruptcy, or other action or proceeding, unless:
  - 1. The receivership or trusteeship is vacated within one hundred twenty (120) days of appointment; or

2. The receivers or trustees have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Franchise and have remedied all defaults under the Franchise. Additionally, the receivers or trustees shall have executed an agreement duly approved by the court having jurisdiction, by which the receivers or trustees assume and agree to be bound by each and every term, provision, and limitation of this Franchise.
- B. If there is a foreclosure or other involuntary sale of the whole or any part of the property and equipment of Grantee, the County may serve notice of revocation on Grantee and the purchaser at the sale, and the rights and privileges under this Franchise shall be revoked thirty (30) days after service of such notice, unless:
1. The County has approved the transfer of the Franchise, in accordance with the procedures set forth in this Franchise and as provided by law; and
  2. The purchaser has covenanted and agreed with the County to assume and be bound by all of the terms and conditions of this Franchise.

**4.9 Incorporation and Annexation.**

- A. If any rights of way covered by this Franchise are incorporated into the limits of any city or town, this Franchise shall terminate as to any rights of way within the corporate limits of such city or town; but this Franchise shall continue as to County rights of way not incorporated into a city or town.
- B. If, pursuant to Article XI § 3 of the Washington Constitution, territory is stricken or taken from the County and a new county is established from the territory taken from the County, this Franchise shall terminate as to any rights of way within the territory so taken to establish the new county; but this Franchise shall continue as to County rights of way not taken from the County.

**4.10 Service of Notice.** Except as provided herein, any notices required or permitted to be given under this Franchise shall be deemed properly served when deposited with the United States Postal Service, postage paid, addressed to the party to receive same.

Notice to the County shall be sent to:

Lewis County Public Works Department  
 Real Estate Services Division  
 2025 NE Kresky Avenue  
 Chehalis, WA 98532

Notice to Grantee shall be sent to:

City of Chehalis  
 1321 S Market Avenue



Grantee shall promptly notify the County of any change in notice address.

**4.11 Open Records.** The County, including the County's Auditor or his/her authorized representative, shall have access to, and the right to inspect, any books and records of Grantee, its parent corporations, and affiliates which are reasonably related to the administration or enforcement of the terms of this Franchise. The County may, in writing, request copies of any such records or books and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One (1) copy of all reports and records required under this or any other subsection shall be furnished to the County, at the sole expense of Grantee.

**4.12 Severability.** The parties understand and agree that if a court holds any part, term, or provision of this Franchise to be illegal or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Franchise did not contain the particular invalid provision. Should the County determine that the severed portions substantially alter the Franchise so that the original intent and purpose of this Franchise no longer exists, the County may, at its sole discretion, terminate this Franchise without cost or penalty.

**4.13 Remedies.** All remedies and penalties under this Franchise, including termination of this Franchise, are cumulative, and the recovery or enforcement of one is not a bar to the recovery or enforcement of any other such remedy or penalty. The remedies and penalties contained in this Franchise, including termination of this Franchise, are not exclusive, and the County reserves the right to enforce the provisions of any ordinance or resolution and to avail itself of any and all remedies available at law or in equity.

**4.14 Nonwaiver of Rights.** The County and Grantee agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Franchise, does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Franchise at a subsequent time.

**4.15 Choice of Law.** This Franchise has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Franchise shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

**4.16 Jurisdiction.** Any action at law, suit in equity, or judicial proceeding arising out of this Franchise shall be instituted and maintained only in any of the courts of competent jurisdiction in Lewis County, Washington.

**4.17 Context.** When consistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular

number include the plural number.

**4.18 Entire Agreement.** The parties agree that this Franchise is the complete expression of the terms and conditions hereunder, and supersedes all prior agreements or proposals except as specifically set forth herein. Any oral or written representations or understandings not incorporated herein are specifically excluded. This Franchise is executed in duplicate originals and executed by the persons signing below who warrant that they have the authority to execute this Franchise.

**4.19 Familiarity with Franchise.** The Grantee acknowledges and warrants by acceptance of the rights, privileges and agreements granted herein, that it has carefully read and fully comprehends the terms and conditions of this Franchise and is willing to and does accept all lawful and reasonable risks of the meaning of the provisions, terms and conditions herein.

**4.20 Acceptance.** Within thirty (30) days after adoption of this Franchise by the Board, this Franchise may be accepted by Grantee by executing this Franchise in duplicate, filing it with the Clerk of the Board, and paying publication costs set out in Sec. 4.1 of this Franchise. Further, the executed Franchise shall be returned accompanied by the required evidence of insurance as provided in Sec. 3.3 of this Franchise, the Financial Security as provided in Sec. 3.1 of this Franchise. In the event Grantee fails to accept this Franchise or fails to comply with all conditions of acceptance as set forth herein within thirty (30) days after adoption by the Board, this Franchise shall be null and void.

ACCEPTED by Grantee this \_\_\_\_\_ day of \_\_\_\_\_, 2022

ACCEPTANCE:

BOARD OF COMMISSIONERS  
for Lewis County, Washington

\_\_\_\_\_  
Grantee

By: \_\_\_\_\_  
(Authorized Signatory & Representative)

\_\_\_\_\_  
Lindsey R. Pollock, DVM, Chair

Its: \_\_\_\_\_

\_\_\_\_\_  
Sean Swope, Vice Chair

ATTEST:

\_\_\_\_\_  
F. Lee Grose, Commissioner

\_\_\_\_\_  
Rieva Lester, Clerk of the Lewis County  
Board of County Commissioners

APPROVED AS TO FORM:  
Jonathan L. Meyer, Prosecuting Attorney

By: \_\_\_\_\_

## EXHIBIT A

All County roads within the City of Chehalis's current UGA as of April 2022 including the following additional County roads outside the UGA:

Taylor road MP 0.00 from Jackson Highway to the terminus of Taylor road at approximately MP 1.01.

Jackson Highway MP 3.89 from the UGA to Jackson Highway MP 5.75.

North Fork road at MP 0.00 from Jackson Highway to the terminus of North Fork road MP 9.25.

Coal Creek road at the City limits MP 0.33 to MP 1.16.

Hillburger road from the City limits south 0.14 miles.

LaBree road from the UGA MP 0.64 to MP 1.06 at Rice road.

Rice road from MP 1.88 to MP 2.47 at Labree road.

## APPENDIX B

### CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Lewis County will accept title to the lands and maintain the project constructed thereon in accordance with Title 23, United State Code, the Regulations for the Administration of program, and the policies and procedures prescribed by the Washington State Department of Transportation of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Lewis County all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

### (HABENDUM CLAUSE)

**TO HAVE AND TO HOLD** said lands and interests therein unto Lewis County and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Lewis County, its successors and assigns.

Lewis County, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree

as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the Lewis County will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

## APPENDIX C

### CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Lewis County pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Lewis County will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Lewis County will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Lewis County and its assigns.\*

**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Lance Bunker, Public Works Director  
Celest Wilder, Engineering Technician II

**MEETING OF:** August 8, 2022

**SUBJECT:** Agreement with Department of Ecology for Flood Control Assistance Account Program (FCAAP) Emergency Program Funding with 20% Local Match

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**ISSUE**

Recent flood events in January of 2022 exceeded the city’s ability to deploy sufficient signage to close off intersections and roads that were flooded. A grant is available to assist the City in obtaining additional equipment to prepare for the next flood event.

**DISCUSSION**

The Washington State Department of Ecology’s Flood Control Assistance Account Program (FCAAP) Emergency Program offers grant funding with a 20% recipient match for the purchase of equipment, signs, and signals. Due to the need for signs and signals exceeding the City’s current supply, City staff have applied for and received grant approval for the purchase of equipment necessary to notify residents and adequately close off roads and intersections that have been inundated with flood waters. Initial purchase will come from the general fund in the total purchase amount with an 80% reimbursement by the Department of Ecology. To fulfill the grant obligation, all purchase and reimbursement activity must be completed before June 30, 2023.

**FISCAL IMPACT**

The City was quoted the following for supplies:

100 barricade lights	\$42.89 each	\$4,289.00
100 orange cones	\$22.89 each	\$2,289.00
25 “road closed” signs	\$52.00 each	\$1,300.00
15 barricade assemblies	\$139.00 each	\$2,085.00
45 barricade boards	\$58.00 each	\$2,610.00
50 “water over roadway signs	\$45.00 each	<u>\$2,250.00</u>
Total		\$14,823.00

Ecology 80% reimbursement:	\$11,858.40
Total fiscal impact to the city:	<b>\$2,964.60</b>

**RECOMMENDATION**

It is recommended that City Council approve the contract with the Department of Ecology and the \$14,823.00 expenditure, plus \$750.00 as a contingency of approximately 5% for potential cost increases for a total of \$15,573 to purchase flood protection signs and signals.

**SUGGESTED MOTION**

Move to approve the contract agreement with the Department of Ecology; authorize the City Manager to execute all related documents; and authorize the expenditure of funds necessary to procure flood protection warning devices.



## Agreement No. SEAFCAAP-2123-ChehPW-00037

### SHORELANDS FCAAP EMERGENCY PROGRAM AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

CITY OF CHEHALIS - PUBLIC WORKS DEPARTMENT

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and City of Chehalis - Public Works Department, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

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#### GENERAL INFORMATION

Project Title:	Flood Emergency Preparedness Supplies
Total Cost:	\$14,823.00
Total Eligible Cost:	\$14,823.00
Ecology Share:	\$11,858.40
Recipient Share:	\$2,964.60
The Effective Date of this Agreement is:	04/19/2022
The Expiration Date of this Agreement is no later than:	06/30/2023
Project Type:	FCAAP Emergency Grant

#### Project Short Description:

The City of Chehalis – Public Works Department (RECIPIENT) will purchase emergency notification signs and signals for use during flood events. This project will help the RECIPIENT prepare for future flood events to protect the health and safety of city residents.

#### Project Long Description:

The recent floods of January 2022 exceeded the RECIPIENT’s ability to deploy sufficient signage to close off intersections and roads that were flooded. The RECIPIENT will purchase additional road signage, barricades, signal devices, and channelization cones.

The RECIPIENT will purchase the following:



Agreement No: SEAFCAAP-2123-ChehPW-00037  
Project Title: Flood Emergency Preparedness Supplies  
Recipient Name: City of Chehalis - Public Works Department

- 100 barricade lights
- 100 orange cones
- 25 “road closed” signs
- 15 barricade assemblies
- 45 barricade boards
- 50 “water over roadway” signs

The RECIPIENT will pay for the following tasks with their own funds:

Task 1. Project Coordination, Management and Administration

The RECIPIENT will pay for the following tasks with grant funds:

Task 2. Flood Safety Equipment Purchase

Overall Goal:

This project will improve public safety by allowing the RECIPIENT to close off entire intersections and streets that are flooded. This will protect city of Chehalis property owners, residents, and visitors.

Agreement No: SEAFCAAP-2123-ChehPW-00037  
Project Title: Flood Emergency Preparedness Supplies  
Recipient Name: City of Chehalis - Public Works Department

**RECIPIENT INFORMATION**

Organization Name: City of Chehalis - Public Works Department

Federal Tax ID: 91-6001235

Mailing Address: 2007 NE Kresky Ave.  
Chehalis, WA 98532

Physical Address: 2007 NE Kresky Avenue  
Chehalis, Washington 98532

Organization Email: cwilder@ci.chehalis.wa.us

**Contacts**

Agreement No: SEAFCAAP-2123-ChehPW-00037  
 Project Title: Flood Emergency Preparedness Supplies  
 Recipient Name: City of Chehalis - Public Works Department

<p><b>Project Manager</b></p>	<p>Lance Bunker                  Street/Stormwater Superintendent</p> <p>2007 NE Kresky Avenue                  Chehalis, Washington 98532                  Email: lbunker@ci.chehalis.wa.us                  Phone: (360) 740-7536</p>
<p><b>Billing Contact</b></p>	<p>Lance Bunker                  Street/Stormwater Superintendent</p> <p>2007 NE Kresky Avenue                  Chehalis, Washington 98532                  Email: lbunker@ci.chehalis.wa.us                  Phone: (360) 740-7536</p>
<p><b>Authorized Signatory</b></p>	<p>Celest Wilder                  Engineer Technician II</p> <p>2007 NE Kresky Avenue                  Chehalis, Washington 98532                  Email: cwilder@ci.chehalis.wa.us                  Phone: (360) 740-7536</p>

Agreement No: SEAFCAAP-2123-ChehPW-00037  
 Project Title: Flood Emergency Preparedness Supplies  
 Recipient Name: City of Chehalis - Public Works Department

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
 Shorelands  
 PO BOX 47600  
 Olympia, WA 98504-7600

Physical Address: Shorelands  
 300 Desmond Drive SE  
 Lacey, WA 98503

**Contacts**

<p><b>Project Manager</b></p>	<p>Alex Rosen</p> <p>PO Box 47775                  Olympia, Washington 98504-7775                  Email: ALER461@ecy.wa.gov                  Phone: (360) 810-0027</p>
<p><b>Financial Manager</b></p>	<p>Michele Boderck</p> <p>PO Box 47600                  Olympia, Washington 98504-7600                  Email: mbod461@ecy.wa.gov                  Phone: (360) 764-6807</p>

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**AUTHORIZING SIGNATURES**

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

Washington State  
Department of Ecology

City of Chehalis - Public Works Department

By: \_\_\_\_\_

By: \_\_\_\_\_

Joenne McGerr  
Shorelands  
Program Manager  
Date

Celest Wilder  
Engineer Technician II  
Date

Template Approved to Form by  
Attorney General's Office

Agreement No: SEAFCAAP-2123-ChehPW-00037  
Project Title: Flood Emergency Preparedness Supplies  
Recipient Name: City of Chehalis - Public Works Department

Jill Anderson

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City Manager

Date

Agreement No: SEAFCAAP-2123-ChehPW-00037  
 Project Title: Flood Emergency Preparedness Supplies  
 Recipient Name: City of Chehalis - Public Works Department

**SCOPE OF WORK**

Task Number: 1 **Task Cost: \$0.00**

Task Title: 1. Project Coordination, Management and Administration

Task Description:

- A. The RECIPIENT will provide Project Coordination to ensure effective communication on this project with all interested parties including ECOLOGY, all affected local, state, federal agencies, tribal nations, local land owners, and other applicable stateholders. In addition, the RECIPIENT should consult with all other appropriate entities that may have useful scientific, technical, or cultural information that will augment this project. Coordination issues include, but are not limited to, flood plain management, habitat and fish protection and restoration, public access and recreation, cultural and archaeological resources, etc.
- B. The RECIPIENT is responsible for conducting Project Management activities to include project scheduling, assuring quality control, adherence to the scope of work, time lines, and due dates; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and has applicable compliance with deed restrictions on acquisitions as well as conducting the competitive procurement process including preparation of grant bidding documents, advertisement; award of grants and grant monitoring.
- C. The RECIPIENT will provide Project Administration including submittal of quarterly progress reports and reimbursement requests with corresponding supporting documentation; maintenance of project records, submittal and compliance of deliverables on established due dates.

Task Goal Statement:

A properly managed project that meets ECOLOGY administrative requirements and provides open communication to all stakeholders.

Task Expected Outcome:

Timely and complete submittal of requests for reimbursement, quarterly progress reports; a project that is on track and within budget and objectives of this funding opportunity are met, and a Recipient Close Out Report (RCOR).

Recipient Task Coordinator: Lance Bunker

**1. Project Coordination, Management and Administration**

**Deliverables**

Number	Description	Due Date
1.1	Quarterly Progress Report/ Payment Requests	
1.2	Recipient Close Out Report	06/30/2023

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 Recipient Name: City of Chehalis - Public Works Department

**SCOPE OF WORK**

Task Number: 2 **Task Cost:** \$14,823.00

Task Title: 2. Flood Safety Equipment Purchase

Task Description:

A. The RECIPIENT will purchase the following items:

- 100 barricade lights
- 100 orange cones
- 25 “road closed” signs
- 15 barricade assemblies
- 45 barricade boards
- 50 “water over roadway” signs

B. If the RECIPIENT purchases equipment that has a useful life of more than a year, and is valued at more than \$5,000.00, the RECIPIENT will submit an Equipment Purchase Report in EAGL for each functional unit or system.

Task Goal Statement:

To improve public safety by allowing the RECIPIENT to close off entire intersections and streets that are flooded.

Task Expected Outcome:

To have more emergency safety equipment available to help the RECIPIENT during the next flood emergency. The safety equipment will protect residents, business owners, and visitors from flood waters.

Recipient Task Coordinator: Lance Bunker

**2. Flood Safety Equipment Purchase**

**Deliverables**

Number	Description	Due Date
2.1	Purchase flood safety equipment.	06/30/2023
2.2	If applicable, submit Equipment Purchase Report form(s) in EAGL.	06/30/2023





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 Recipient Name: City of Chehalis - Public Works Department

### **Funding Distribution Summary**

#### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
FCAAP 21-23 Emergency Grant	20.00 %	\$ 2,964.60	\$ 11,858.40	\$ 14,823.00
<b>Total</b>		<b>\$ 2,964.60</b>	<b>\$ 11,858.40</b>	<b>\$ 14,823.00</b>

#### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

#### **SPECIAL TERMS AND CONDITIONS**

##### **Floodplains by Design and Flood Control Assistance Account Program - Special Terms and Conditions**

1. Local Decision: This grant is made in response to a request for financial assistance from the RECIPIENT to undertake flood damage prevention projects. The choice of floodplain management activities addressed by this grant is a local decision made solely by the RECIPIENT. The RECIPIENT is not acting as an agent of the State of Washington.
2. Lawsuits: Ecology shall not be responsible for any non-contractual damage or inverse condemnation claims resulting from the structures or works constructed, repaired, restored, maintained, or improved pursuant to this grant.
3. Indemnification, Hold Harmless and Duty to Defend
  - a. Ecology shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the scope of work.
  - b. This paragraph applies to negligence based claims only. All other claims are governed by paragraph 4 of this section (item 3.d). To the extent the constitution and laws of the State of Washington permit, RECIPIENT shall indemnify, defend and hold harmless the State, its agencies, officers and employees, from all claims, suits or actions brought for any or all injuries to persons or property arising from, or as a consequence of, negligent acts or omissions related to the construction, restoration, repair, maintenance, improvement or operation of the structures or works for which this grant is provided. If the structures or works for which this grant is received are a portion of an integrated flood protection system, RECIPIENT agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system; PROVIDED, however, that this provision is not intended to and shall not be construed as a waiver by RECIPIENT of any immunities conferred upon the RECIPIENT by RCW 86.12.037 nor is it intended to, and it shall not be construed to, confer any rights upon third parties.
  - c. The RECIPIENT will not be required to indemnify, defend, or save harmless the State, its agencies, officers or employees as provided in the preceding paragraph of this section if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the State. Where such claims, suits, or actions result from the concurrent negligence of (a) the State, or

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the State's agents or employees and (b) the RECIPIENT or the RECIPIENT's agents or employees, the indemnity provisions provided in the preceding paragraphs of this section shall be valid and enforceable only to the extent of the RECIPIENT's negligence or the negligence of its agents and employees.

d. To the extent that the constitution and laws of the State of Washington permit, RECIPIENT shall indemnify and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the continued operation, maintenance, or repair of the structures or works constructed, restored, repaired, maintained or improved as a result of this grant. If the structures or works for which this grant is received are portions of an integrated flood protection system, RECIPIENT agrees to indemnify, defend and hold harmless the State of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system; PROVIDED, however, that the indemnity provisions of this paragraph are not intended to and shall not be construed as a waiver by Recipient of any immunities conferred upon the Recipient by RCW 86.12.037 nor are they intended to, and they shall not be construed to, confer any rights upon third parties. This agreement applies to all non-negligent, non-contractually based claims including, but not limited to, inverse condemnation, contribution, indemnification, trespass and/or nuisance.

4. Any development activity funded by this grant which occurs in the Federal Emergency Management Agency (FEMA)-mapped regulatory floodplain, also known as the Special Flood Hazard Area (SFHA), may trigger the need for a floodplain development permit from the local agency with floodplain management jurisdiction. "Development" is defined at 44 CFR 59.1 as " ... any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials." Further, any activity funded by this grant may change the base flood elevations from physical changes affecting the floodplain. Communities are required by 44 CFR 65.3 to submit new data to FEMA in the event their actions affect the base flood elevation and the regulatory map (the SFHA).

5. ECOLOGY waives property acquisition report appraisal requirements for properties valued at \$25,000 or less. When the estimated property value does not exceed \$25,000, and the acquisition is not complex, the RECIPIENT may be exempt from meeting appraisal and review appraisal standards. Such exemptions must be requested in writing and approved by the ECOLOGY Project Manager before the closing on the property. The RECIPIENT must follow the appraisal waiver standards in 44 C.F.R. § 24.102.

6. Some RECIPIENTS are required to provide grant match. Match is made up of three different types of contributions: cash expenditures, in kind other, and in kind interlocal. Cash match expenditures are eligible costs paid by the RECIPIENT and are not reimbursed by ECOLOGY. In kind contributions are property or services that benefit a project and are contributed to the RECIPIENT by a third party without direct monetary compensation. In kind other is a type of contribution where the third party making the contribution is not a government entity. In kind interlocal is a type of contribution where both the grant RECIPIENT and the third party making the contribution are both government entities and have a signed Inter-local agreement between them.

7. RECIPIENTS are required to submit a copy of the original invoice in the Payment Request backup documentation if an invoice number is referenced on a primary or subcontractor invoice.

8. To be eligible for reimbursement, RECIPIENTS must provide documentation of how an expenditure is directly related to the project. Ecology will not reimburse any expenditure that is already included in the indirect rate. At Ecology's sole discretion, ECOLOGY may approve reimbursement for the percentage of an expenditure that is directly related to the project.

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FLOODPLAINS BY DESIGN FUNDING PROGRAM AND FCAAP GRANTS SPECIAL TERMS AND CONDITIONS LAST UPDATED MAY 2021.

**GENERAL FEDERAL CONDITIONS**

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY

EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING

REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five

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top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in [www.sam.gov](http://www.sam.gov) <<http://www.sam.gov>> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <<http://www.usaspending.gov>>.

For more details on FFATA requirements, see [www.fsrc.gov](http://www.fsrc.gov) <<http://www.fsrc.gov>>.

### C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <<https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM) <<https://sam.gov/SAM>> exclusion list.

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## GENERAL TERMS AND CONDITIONS

### Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

#### GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

06/24/2021 Version

#### 1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html>)
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

#### 2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

#### 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
    - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
- \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

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- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
  - Make the IDP readily available to anyone working at the project site.
  - Discuss the IDP with staff, volunteers, and contractors working at the project site.
  - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

## 6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

## 7. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.wa.gov).
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

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j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

#### 8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### 9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

#### 10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

#### 11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.



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The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

## 14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

## 15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

Agreement No: SEAFCAAP-2123-ChehPW-00037  
Project Title: Flood Emergency Preparedness Supplies  
Recipient Name: City of Chehalis - Public Works Department

## 16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

## 17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

## 18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

## 19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

## 20. PROGRESS REPORTING

Agreement No: SEAFCAAP-2123-ChehPW-00037  
Project Title: Flood Emergency Preparedness Supplies  
Recipient Name: City of Chehalis - Public Works Department

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

Agreement No: SEAFCAAP-2123-ChehPW-00037  
Project Title: Flood Emergency Preparedness Supplies  
Recipient Name: City of Chehalis - Public Works Department

## 22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
  - b) Be kept in a common file to facilitate audits and inspections.
  - c) Clearly indicate total receipts and expenditures related to this Agreement.
  - d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
- RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

## 23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement. RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

## 24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

## 25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

## 26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

Agreement No: SEAFCAAP-2123-ChehPW-00037  
Project Title: Flood Emergency Preparedness Supplies  
Recipient Name: City of Chehalis - Public Works Department

## 27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. TERMINATION

### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no

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event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments. If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions

**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Lance Bunker, Public Works Director  
Jud Riddle, Street/Storm Superintendent

**MEETING OF:** August 8, 2022

**SUBJECT:** 2021 Transportation Benefit District Annual Report

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**ISSUE**

RCW 36.73.160(2) requires Transportation Benefit Districts to issue an annual transportation report detailing the revenues, expenditures, and status of all Transportation Benefit District projects for the preceding calendar year

**DISCUSSION**

The City of Chehalis (City) Transportation Benefit District (TBD) was formed in 2014, and a ten-year 0.2% sales tax increase for the purpose of financing TBD projects was ratified by the voters in 2017. This report must be distributed to the newspapers of record in the district.

In 2021 the following projects were complete or substantially complete using TBD Funds:

<b>Project Name</b>	<b>Project Cost TBD Funds</b>
• Main Street Improvements	\$586,495.01
• Chehalis Ave Improvements	\$46,001.60
• Penny Playground Parking Lot	\$105,406.53
• Sitka Avenue Improvements	\$85,209.48
• Snively Avenue Reconstruction	\$85,536.79
• Pacific Avenue Reconstruction (substantially complete)	\$490,666.36

The attached report satisfies the requirements of Washington State Law.

**FISCAL IMPACT**

None

**RECOMMENDATION**

It is recommended that the City Council approve the 2021 Transportation Benefit District Annual Report.

**SUGGESTED MOTION**

Move to approve the 2021 Transportation Benefit Annual Report.



# CITY OF CHEHALIS

## PUBLIC WORKS DEPARTMENT

2007 NE KRESKY AVENUE, CHEHALIS, WA 98532

PHONE (360) 748-0238 • FAX (360)748-6664

### FY 2021 Transportation Benefit District Annual Report

The City of Chehalis (City) Transportation Benefit District (TBD) was formed in 2014, and a ten-year 0.2% sales tax increase for the purpose of financing TBD projects was ratified by the voters in 2017.

This report provides information on the status of the City of Chehalis Transportation Benefit District and fulfills the requirements of the State of Washington and the TBD for an annual report. Below are excerpts from the relevant state law:

RCW 36.73.160(2): A district shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the district.

Last year (2021) was the fourth full year of operating the TBD. The city completed five projects in 2021 with Pacific Avenue Reconstruction substantially complete.

Project Name	Project Cost TBD Funds
<b>Main Street Improvements</b>	\$586,495.01
<b>Chehalis Ave Improvements</b>	\$46,001.60
<b>Penny Playground Parking Lot</b>	\$105,406.53
<b>Sitka Avenue Improvements</b>	\$85,209.48
<b>Snively Avenue Reconstruction</b>	\$85,536.79
<b>Pacific Avenue Reconstruction (substantially complete)</b>	\$490,666.36

There was a small expense of \$6,454.13 for curb installation.

Cash resources at the beginning of 2021 were \$3,105,160.51. Total revenues received in 2021 was \$1,384,584.97 which include \$1,365,826.94 in public transportation sales tax, \$2,833.38 in interest earnings, and \$15,924.65 in grant funds. Total expenditures for 2021 were \$1,418,049.10. The ending 2021 cash resources were \$3,071,696.38



**Current Year (2022) Transportation Projects**

<b>Project Name</b>	<b>Estimated Cost</b>
<b>South End of Chehalis: Chip seal, patching, pre-leveling</b>	\$100,000
<b>National Avenue (Chamber St. to Kresky Ave): Grind and inlay</b>	\$443,247.00 (TIB funds: \$59,241 for a total cost of \$502,488)
<b>Chehalis Ave: Repair 3<sup>rd</sup> St. to 9<sup>th</sup> St.</b>	\$2,240,067.55

The estimated costs for these projects are approximately \$2,842,555.00.

Respectfully,

Jud Riddle, Streets Superintendent

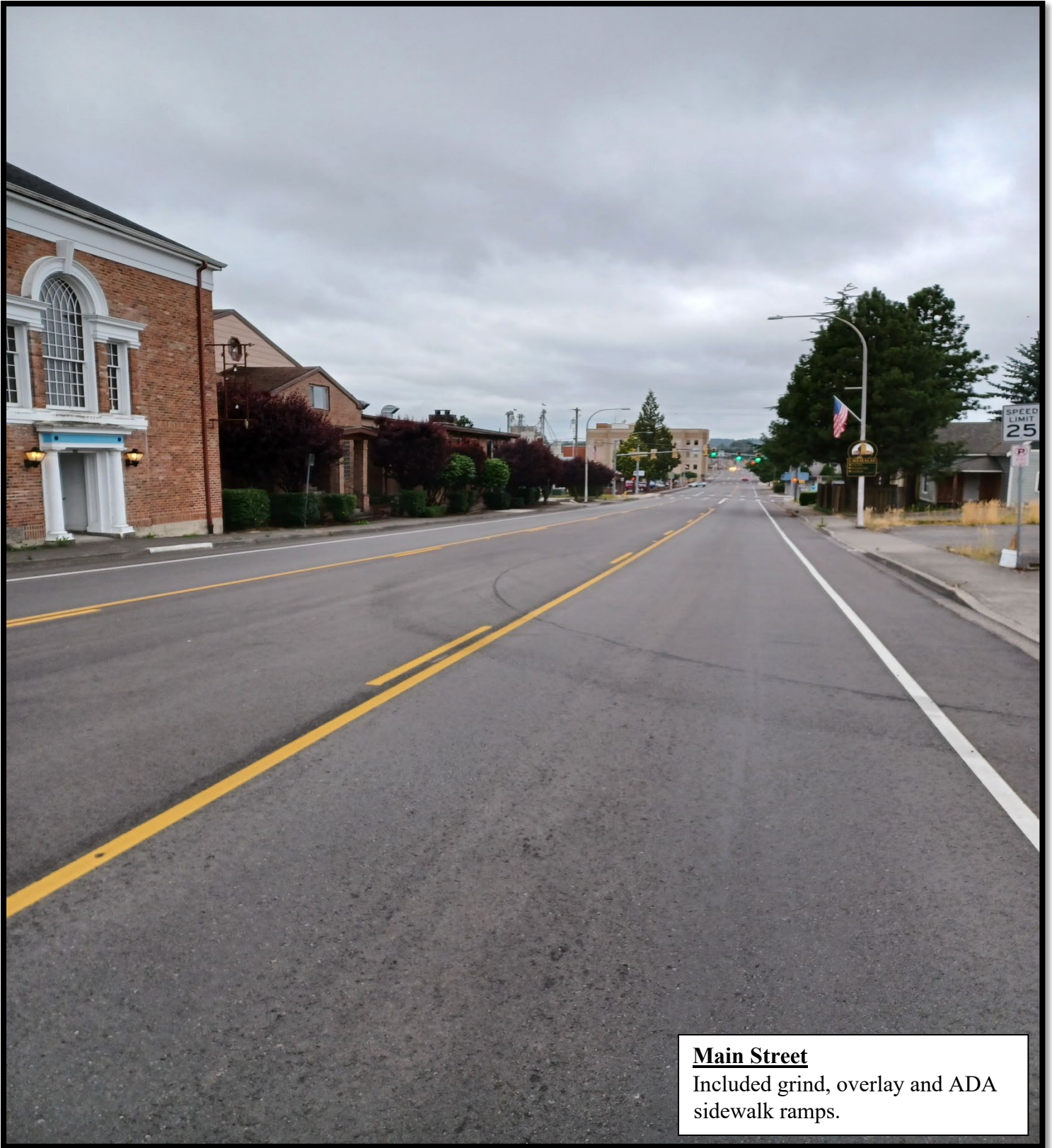
Attached: Photos of completed projects in 2021



**Pacific Ave (substantially complete)**  
Included water, stormwater, curb, gutter, sidewalk, roadway, lighting, and foliage



**Snively Ave**  
Included water, sewer, curb, gutter, and roadway.



**Main Street**  
Included grind, overlay and ADA sidewalk ramps.



**Penny Playground Parking Lot**  
Included curb, gutter, sidewalk  
and parking lot.

**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Brandon Rakes, Airport Operations Coordinator

**MEETING OF:** August 8, 2022

**SUBJECT:** Third Addendum to the Lease with SERJ Car Wash, LLC. Db a Glint Car Wash

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**ISSUE**

The original Lease agreement with SERJ Car Wash, LLC. Db a Glint Car Wash established the escalation of rent based on the *Effective Date* of the lease which is the date the lease was executed by all parties (June 8, 2020). However, the escalation of rent was intended to be based on the *Commencement Date* of the lease which is the day rent begins. The Commencement Date in this contract is defined as the date Tenant commences retail commercial use of any portion of the Property, but not later than that date which is eighteen months after the Inspection Completion Date of September 30, 2021, which would be March 30, 2023.

**Discussion**

In June of 2020, the 25-year Lease with SERJ Car Wash, LLC. Db a Glint Car Wash was fully executed. Amendments #1, approved in January of 2021, and Addendum #2, approved in July 2021, provided the Tenant with additional time to complete inspections to accommodate the building seasons. The Tenant is now constructing the car wash and expects to be operational before the end of this year.

After executing the lease agreement for this site, it was discovered there was an error in the lease agreement language related to the escalation of rent timeline. The original Lease agreement with SERJ Car Wash, LLC. Db a Glint Car Wash established the escalation of rent based on the *Effective Date* of the lease which is the date the lease was executed by all parties (June 8, 2020). However, the intent of the agreement is to collect rent beginning on the *Commencement Date* of the lease agreement which is when rent begins and to have rent escalations at the rate of 10% of the rent then in effect in five-year intervals thereafter based on the Commencement Date. This is a customary term in most lease agreements the City has approved.

**FISCAL IMPACT**

The fiscal impact of approving addendum #3 to SERJ Car Wash, LLC. Db a Glint Car Wash is that the rent will not increase until five years after the Commencement Date of the agreement which is when rent begins, rather than the effective date, which is the date the lease was executed.

**RECOMMENDATION**

It is recommended that the City Council approve the Addendum #3 to the Ground Lease with SERJ Car Wash, LLC. Db a Glint Car Wash and authorize the City Manager to execute the document.

**SUGGESTED MOTION**

I Move to approve the Addendum to the Ground Lease with SERJ Car Wash, LLC. Dba Glint Car Wash and authorize the City Manager to execute the document.

**THIRD ADDENDUM TO GROUND LEASE**

**THIS ADDENDUM TO GROUND LEASE** by and between **CITY OF CHEHALIS, as operator of the Chehalis-Centralia Airport**, hereinafter called "Landlord", and **SERJ CAR WASH, LLC, d/b/a Glint Car Wash**, hereinafter called "Tenant", and agree as follows:

1. Paragraphs 4.3 Reappraisal and 4.4 Escalation of Rent After Appraisal shall be amended to read as follows:

**4.3 Reappraisal.** On each twentieth anniversary of the Commencement Date of this Lease the Rent will be adjusted to fair market rental value, which annual Rent is deemed to be a sum equal to Ten Percent (10%) of the fair market value of the Property, as determined by appraisal. It is understood and agreed by both parties that the appraisal will be based upon fair rental for vacant unimproved land exclusive of all Tenant owned improvements made to the Property after the Commencement Date of this Lease. Landlord shall engage an independent appraiser (MAI) to appraise the Property. If Tenant disagrees with the value of Landlord's appraiser, Tenant may, at its expense, obtain a separate independent appraisal (MAI) for Landlord's consideration. If Landlord and Tenant cannot agree on the fair market value of the Property, the appraisers shall select a third independent appraiser (MAI) to review the two appraisals and set the fair market value for the Property, to set the new annual rental for this Lease, which shall be binding upon both parties to this Lease, provided that the rent so determined shall not be less than the rent payable prior to an Appraisal Date. The cost of a third appraiser shall be borne equally by the two parties.

**4.4 Escalation of Rent After Appraisal.** The Rent shall, commencing on the fifth (5<sup>th</sup>) anniversary of the Commencement Date hereof, and again on the tenth (10<sup>th</sup>) anniversary of the Commencement Date hereof, and again on the fifteenth (15<sup>th</sup>) anniversary of the Commencement Date hereof, be increased by ten percent (10%) of the Rent then in effect. Then, after the Rent is determined by appraisal pursuant to the procedures set forth in Section 4.3 above, on the twentieth (20<sup>th</sup>) anniversary of the Commencement Date hereof, and on the twenty fifth (25<sup>th</sup>) anniversary of the Commencement Date hereof, and on the thirtieth (30<sup>th</sup>) anniversary of the Commencement Date hereof, and on the thirty fifth (35<sup>th</sup>) anniversary of the Commencement Date hereof, be increased by ten percent (10%) of the Rent then in effect. Then, after the Rent is determined by appraisal pursuant to the procedures set forth in Section 4.3 above on the fortieth (40<sup>th</sup>) anniversary of the Commencement Date, on the on the forty fifth (45<sup>th</sup>) anniversary of the Commencement Date hereof, and on the fiftieth (50<sup>th</sup>) anniversary of the Commencement Date hereof be increased by ten percent (10%) of the Rent then in effect.

2. Except as so amended, the Ground Lease remains in full force and effect.

**EXECUTED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF CHEHALIS**

**By** \_\_\_\_\_  
**Name:** Jill Anderson  
**Its:** City Manager  
**Date:** \_\_\_\_\_

**LANDLORD**

**SERJ Car Wash, LLC, d/b/a/ Glint Car Wash**

**By** \_\_\_\_\_  
**Name:**  
**Its:**  
**Date:** \_\_\_\_\_

**TENANT**



**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Tammy Baraconi, Planning and Building Manager

**MEETING OF:** August 8, 2022

**SUBJECT:** Resolution No 09-2022. An Interlocal Agreement with Lewis County Sewer District #4 to Serve a Chehalis Wastewater Customer

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**INTRODUCTION**

The City of Chehalis does not have the necessary infrastructure to allow wastewater hookups on Jackson Highway, south of Logan Hill Road. This area has been primarily served by Lewis County Sewer District #4.

The City has been approached by a developer interested in building a large apartment complex between the areas currently served by Lewis County Sewer District #4. To provide the necessary services for this development to move forward, the City has the opportunity to enter into an Interlocal Agreement with LCSD4 (Exhibit B) to provide the needed services.

**DISCUSSION**

City staff was approached in early 2022 about the possibility of a large apartment complex being created on vacant land south of Armstrong Road and north of Yates Road. This area lies between the two areas currently being served by LCSD4 (Exhibit A), which means it falls to the City to serve this development with sewer services. Unfortunately, the City does not have the necessary infrastructure in place to serve this development.

In conversations with LCSD4, it was determined that they do have the capacity to serve this development and Patrick Wiltzius states they are willing to do so. The mechanism to facilitate this is an Interlocal Agreement. By entering into this Agreement, the developer would pay all hook up fees and monthly charges to District 4 and District 4 would in turn be responsible for providing those services.

On July 21, 2022, LCSD4 meet to review this Interlocal Agreement at a regular Board Meeting. The Board indicated a willingness to enter into this agreement with the City after the City Council has made their decision.

Without this Interlocal Agreement, the developer would have to bring the sewer from Bishop Road, near Interstate 5, making this project cost prohibitive.

**FISCAL IMPACT**

As the City currently does not receive any wastewater revenue from this location, no revenues will be lost if LCSD4 provides sewer service.

With this interlocal agreement, LCSD4 will not purchase additional capacity from the City of Chehalis to serve our customer. The estimated cost to LCSD4 for additional capacity is approximately \$350,000. The property owners will have to pay LCSD4 facility charges and rates. LCSD4 will handle the billing.

The current pump station may not be able to handle the additional load. If it is determined at the time of development, with the appropriate study, that the pump station needs upgrades, those costs would be addressed by LCSD4 and the developer.

**RECOMMENDATION**

It is recommended that the City Council approve Resolution No 09-2022, an Interlocal Agreement with Lewis County Sewer District #4 to provide services to parcels 017808001006, 017808001044, 017855001001, 017855001002.

**SUGGESTED MOTION**

Move to approve Resolution No 09-2022, an Interlocal Agreement between the City of Chehalis and Lewis County Sewer District #4 to provide wastewater services to the properties as identified in the Agreement and authorize the City Manager to execute all necessary documents.

**RESOLUTION NO. 09-2022**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH LEWIS COUNTY SEWER DISTRICT #4 FOR SERVICE TO LEWIS COUNTY PARCELS SUBJECT TO DEVELOPMENT**

**WHEREAS**, Lewis County Sewer District 4 (LCSD #4) serves two separate defined service areas both north and south of Subject properties on Jackson Highway north of Yates Rd.; and

**WHEREAS**, the Subject properties are not within the defined service boundaries of LCSD #4; and

**WHEREAS**, Chehalis does not have sewer infrastructure in place to serve new development in this area; and

**WHEREAS**, LCSD #4 has basic infrastructure in place to provide sewer services to the Subject properties; and

**WHEREAS**, LCSD #4 disposes of its wastewater for treatment at the Chehalis Regional Water Reclamation Facility; and

**WHEREAS**, LCSD #4 has limited treatment capacity at the Chehalis Regional Water Reclamation Facility; and

**WHEREAS**, LCSD #4 has limited capacity in the Sewer Interceptor that serves the city of Napavine, LCSD #4 and portions of Chehalis; and

**WHEREAS**, proposed development of Subject properties would cause LCSD #4 to exceed allotted capacity in the Chehalis Regional Water Reclamation Facility; and

**WHEREAS**, proposed development of Subject properties would use a significant amount of capacity allotted to LCSD #4 in the Sewer Interceptor; and

**WHEREAS**, the process to add the Subject properties to LCSD #4 service boundaries is a long and lengthy process; and

**WHEREAS**, the City wishes to promote timely development of the Subject properties; and

**WHEREAS**, the parties to this Agreement are authorized under the Interlocal Cooperation Act to enter into a contract for the provision of providing sewer services to the Subject properties:

**NOW, THEREFORE, IT BERESOLVED by the City Council of the City of Chehalis as follows:**

**Section 1.** The City Manager is authorized to execute the interlocal agreement with the Lewis County Sewer District #1, to provide service to Subject properties, Lewis County tax parcel numbers 017808001006, 017808001044, 17855001001, and 017855001002, legally described as attached in Exhibit A, and forming a part of this Resolution.

**Section 2.** The City Manager is further authorized to execute such amendments as are necessary to amend and extend the term of the agreement.

PASSED by the City Council of Chehalis, Washington, and approved by its Mayor this \_\_\_\_\_ day of July 2022.

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Mayor

ATTEST:

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City Clerk

**INTERLOCAL AGREEMENT BETWEEN CITY OF CHEHALIS AND LEWIS COUNTY  
SEWER DISTRICT #4 REGARDING SERVICE TO LEWIS COUNTY PARCEL  
NUMBERS 017808001006, 017808001044, 17855001001,017855001002**

This INTERLOCAL AGREEMENT is entered into this \_\_\_\_\_ day of July 2022, by and between the City of Chehalis, a municipal corporation, herein called Chehalis, and Lewis County Water and Sewer District #4, a special purposes utility district, herein called LCSD#4, herein called Associated Parties or Parties for the purpose of providing sewer services to Lewis County parcels 017808001006, 017808001044, 017855001001, 017855001002 herein called Subject properties.

**WHEREAS**, LCSD#4 serves two separate defined service areas both north and south of Subject properties on Jackson Highway north of Yates Rd.; and

**WHEREAS**, the Subject properties are not within the defined service boundaries of LCSD#4; and

**WHEREAS**, Chehalis does not have sewer infrastructure in place to serve new development in this area; and

**WHEREAS**, LCSD#4 has basic infrastructure in place to provide sewer services to the Subject properties; and

**WHEREAS**, LCSD#4 disposes of its wastewater for treatment at the Chehalis Regional Water Reclamation Facility; and

**WHEREAS**, LCSD#4 has limited treatment capacity at the Chehalis Regional Water Reclamation Facility; and

**WHEREAS**, LCSD#4 has limited capacity in the Sewer Interceptor that serves the city of Napavine, LCSD#4 and portions of Chehalis; and

**WHEREAS**, proposed development of Subject properties would cause LCSD#4 to exceed allotted capacity in the Chehalis Regional Water Reclamation Facility; and

**WHEREAS**, proposed development of Subject properties would use a significant amount of capacity allotted to LCSD#4 in the Sewer Interceptor; and

**WHEREAS**, the process to add the Subject properties to LCSD#4 service boundaries is a long and lengthy process; and

**WHEREAS**, the City wishes to promote timely development of the Subject properties; and

**WHEREAS**, the parties to this Agreement are authorized under the Interlocal Cooperation Act to enter into a contract for the provision of providing sewer services to the Subject properties:

**Now, Therefore Chehalis and LCSD#4 do hereby mutually consent and agree to the following:**

1. **Purpose** – The purpose of the Agreement is to have LCSD#4 service a predefined area along Jackson Highway that is not within LCSD#4 service boundaries and waive any requirement by the City that LCSD#4 purchase additional capacity in the Chehalis Regional Water Reclamation Facility and Sewer Interceptor to serve development of Subject property. The area subject to this Agreement is identified and described in **Exhibit A**, attached hereto and incorporated herein.

**2. Effective Date and Terms of the Contract** – This Agreement shall be in full force and effect and binding upon its execution and filing pursuant to RCW 39.34.040. This Agreement shall continue in force and effect for the life of development on the Subject properties. In the event that development is delayed, the Agreement shall continue in full force and effect for a period of five (5) years beginning August 1, 2022, and ending July 31, 2027.

**3. Monthly sewer rates** - Development of the subject properties will be served by and be customers of LCSD#4 subject to rates set by LCSD#4. Upgrade of LCSD#4's sewage facilities to serve development of Subject properties will be subject to all LCSD#4 standards and requirements and be subject to capacity charges as set by LCSD#4.

**4. Capacities** - All sewage and I&I flows from development of the Subject properties into the LCSD#4's sewage system will not count against LCSD#4's allotted capacities in the Chehalis Regional Water Reclamation Facility and/or Sewer Interceptor.

**5. Integrated Agreement** – This Agreement along with the Cost Apportionment Agreement (adopted by resolution 17-2003) and the Sewer Interceptor Agreement (adopted as interlocal agreement on 6/22/1994) constitutes the full and complete understanding of the parties and there are no other Agreements, either verbal or written, which would alter the terms of this document. The Agreement may be modified or amended only by supplemental written Agreement hereafter negotiated by the Parties or by annexation, at which time the Agreement be necessarily modified or terminated. The parties shall negotiate in good faith.

**6. No Third-Party Beneficiary** – The provisions of this Interlocal Agreement are not intended to create any third-party beneficiary contract rights, and therefor none should be deemed created by the Agreement. The Agreement between the Parties is only intended to create rights and/or obligations between the signatory parties.

**7. Governing Law** – This Agreement is entered into and shall be governed by the law of the State of Washington. In the event of dispute that has completed arbitration or has been held ineligible for arbitration, the venue shall lie in Lewis County, Washington.

**8. Arbitration of Disputes** – It is the intent of all Parties of this Agreement that disputes, if any, between any of the Parties hereto shall be resolved as informally and amicably as possible by settlement without the assistance of any outside professionals in dispute resolution. However, if such conciliation fails, the Parties agree that mediation may be used. If the Parties are unable to resolve the dispute through mediation, then an arbitrator shall be selected through the auspices of the American Arbitration Association, or any such entity providing arbitrators as the Parties may agree upon. The arbitration shall proceed, however, with a single arbitrator and with the Parties sharing the costs proportionately. Only if arbitration is unsuccessful or declared to be inapplicable to the dispute shall the Parties proceed to Superior Court.

**9. Hold Harmless/Indemnification** – Each of the Parties which are signatories hereto, by executing this Agreement, are deemed to hold harmless and indemnify all other parties for any negligence, errors, or omissions of the indemnifying party. The indemnification and hold harmless is mutual with respect to any of the negligence, errors, and omissions of any of the other parties, with respect to their own negligence, errors, and omissions. Each party therefore remains solely liable for their own sole negligence, errors, and omissions. Such indemnification extends not only to the actual party, but all employees, agents, volunteers and parties action on their behalf. The respective parties to the Interlocal Agreement are not deemed to be agent so each other for purposes of this Agreement.

10. **Industrial Insurance Waiver** – With respect to the performance of this Agreement and as to claims against any of the parties, their officers, agents and employees, each party expressly waives its immunity to the other parties only, under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees, and agrees that the obligation to indemnify, defend and hold harmless provided in the Agreement, extend to any claim brought by or on behalf of any employee of the party. This waiver is mutually negotiated by the Parties of to this Agreement.

**CITY OF CHEHALIS**

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City Manager

ATTEST:

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City Clerk

**LEWIS COUNTY WATER AND SEWER DISTRICT #4**

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President

ATTEST:

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Board Secretary

**Exhibit A**

**Legal description Lewis County Parcel # 017808001006**

Lot 4 of City of Chehalis Short Plat No. UGA-SP-18-002, Records of Lewis County Washington.

**Legal description Lewis County Parcel # 017855001001**

Lot 3 of City of Chehalis Short Plat UGA-SP-20-002, Records of Lewis County Washington.

**Legal description Lewis County Parcel # 017808001044**

Lot 4 of Short Subdivision City of Chehalis Short Plat UGA-SP-18-002 filed September 25, 2018 in Book 3 of Short Plats at page 124, Auditor's File No. 3491218 being a portion of the Southeast Quarter in Section 11, Township 13 North, Range 2 West and a portion of the Northeast Quarter in Section 14, Township 13 North, Range 2 West, W.M.

Lewis County, Washington

**Legal description Lewis County Parcel # 017855001002**

ALL THAT PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 13 NORTH, RANGE 2 WEST, W.M., LYING NORTH OF YATES ROAD AND EAST OF JACKSON HIGHWAY.

EXCEPTING THEREFROM THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 13 NORTH, RANGE 2 WEST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE SOUTH

87°29'31" EAST ALONG THE NORTH LINE OF SAID SUBDIVISION A DISTANCE OF 19.20 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 87°29'31" EAST ALONG SAID NORTH LINE A DISTANCE OF 238.51 FEET; THENCE SOUTH 44° 11'57" WEST A DISTANCE OF 181.62 FEET TO THE NORTHEASTERLY MARGIN OF JACKSON HIGHWAY; THENCE NORTH 38°26'47" WEST ALONG SAID MARGIN A DISTANCE OF 179.58 FEET TO THE NORTH LINE OF SAID SUBDIVISION AND THE TRUE POINT OF BEGINNING. TOGETHER WITH A 60 FOOT WIDE EASEMENT FOR INGRESS, EGRESS AND UTILITIES LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 13 NORTH, RANGE 2 WEST, W.M., LYING 60 FEET NORTHERLY AND PARALLEL TO THE FOLLOWING DESCRIBED LINE:

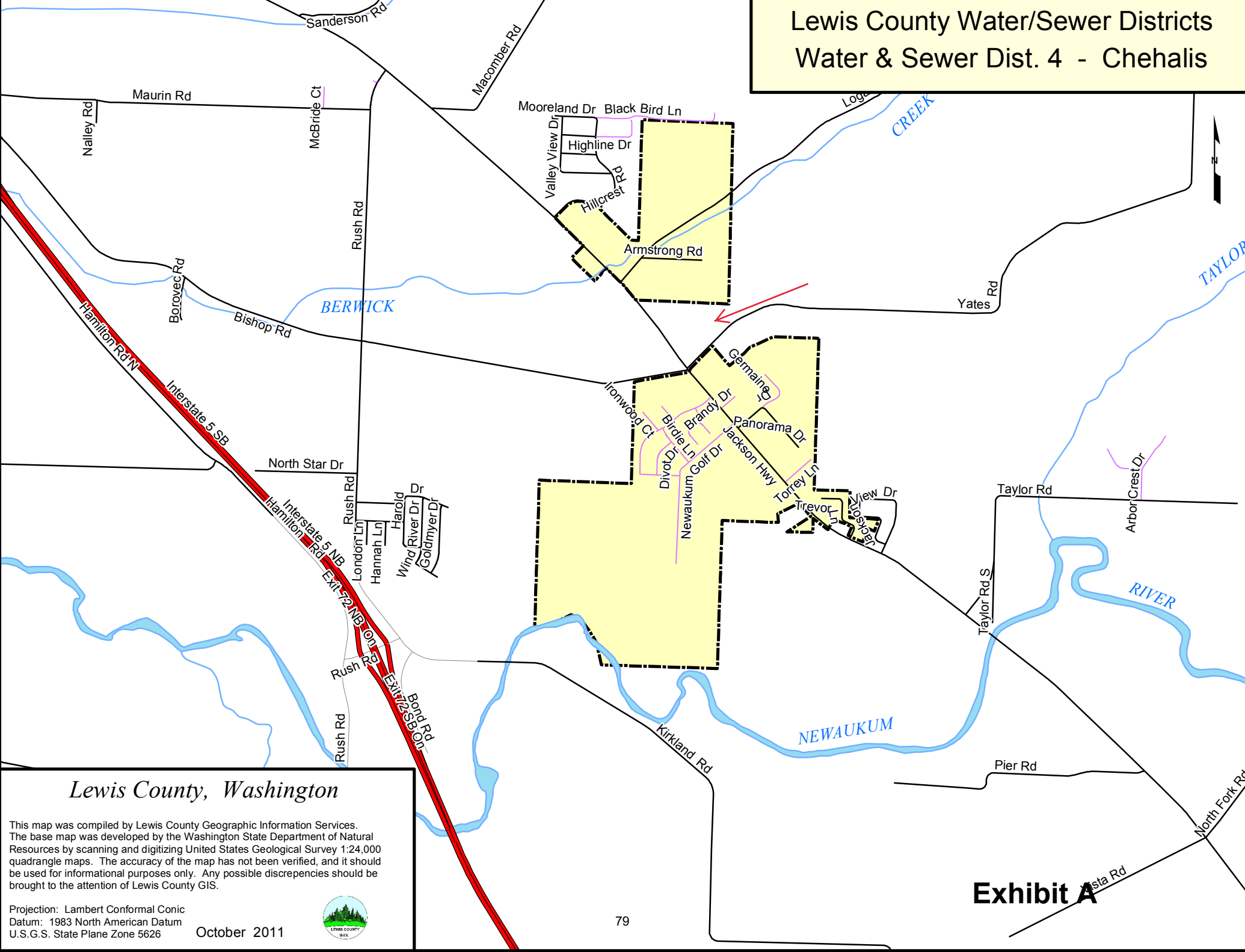
COMMENCING AT THE NORTHWEST CORNER OF SAID SUBDIVISION; THENCE SOUTH

87°29'31" EAST ALONG THE NORTH LINE OF SAID SUBDIVISION A DISTANCE OF 257.71 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 44°11'57° WEST A DISTANCE OF 181.62 FEET TO THE NORTHEASTERLY MARGIN OF JACKSON HIGHWAY AND THE TERMINUS OF SAID LINE.

LEWIS COUNTY, WASHINGTON



# Lewis County Water/Sewer Districts Water & Sewer Dist. 4 - Chehalis



## Lewis County, Washington

This map was compiled by Lewis County Geographic Information Services. The base map was developed by the Washington State Department of Natural Resources by scanning and digitizing United States Geological Survey 1:24,000 quadrangle maps. The accuracy of the map has not been verified, and it should be used for informational purposes only. Any possible discrepancies should be brought to the attention of Lewis County GIS.

Projection: Lambert Conformal Conic  
 Datum: 1983 North American Datum  
 U.S.G.S. State Plane Zone 5626  
 October 2011



**Exhibit A**

**CHEHALIS CITY COUNCIL MEETING  
AGENDA REPORT**

**TO:** The Honorable Mayor and City Council

**FROM:** Jill Anderson, City Manager

**BY:** Madisen Lester, Court Administrator

**MEETING OF:** August 8, 2022

**SUBJECT:** Legislation changes impacting protection order RCWs – Ordinance No. 1033-B First Reading

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**ISSUE**

Due to recent changes in legislation, the City of Chehalis must adopt portions of RCW 7.105.450 in order to properly address procedure and enforcement of civil protection orders within the City’s jurisdiction.

**DISCUSSION**

As of July 1, 2022, a new chapter of the Revised Code of Washington became effective, governing a variety of civil protection orders. The establishment of the new chapter allows governing of all types of protection orders (domestic violence protection orders, sexual assault protection orders, stalking protection orders, anti-harassment protection orders, vulnerable adult protection orders, and extreme risk protection orders) and provides more uniformity in the rules and procedures that govern protection order petitions and proceedings. Along with several other new provisions, the new chapter allows the authorization of electronic filing and electronic service and allows protection order hearings to be conducted remotely.

**FISCAL IMPACT**

None

**RECOMMENDATION**

It is recommended that the City Council pass Ordinance 1033-B, amending chapter 7.04 of the Chehalis Municipal Code to conform with new state statute governing protection orders.

**SUGGESTED MOTION**

I move that the City Council pass Ordinance 1033-B, amending chapter 7.04 of the Chehalis Municipal Code on first reading.

**ORDINANCE NO. 1033-B**

**AN ORDINANCE OF THE CITY OF CHEHALIS,  
WASHINGTON, AMENDING CHAPTER 7.04 OF THE  
CHEHALIS MUNICIPAL CODE TO CONFORM NEW  
WASHINGTON STATE STATUTES GOVERNING CIVIL  
PROTECTION ORDERS AND ESTABLISHING AN  
EFFECTIVE DATE HEREOF.**

**WHEREAS**, the City of Chehalis has adopted a municipal code to include criminal code provisions under Chapter 7.04 CMC; and

**WHEREAS**, it is a priority of the City to adopt a criminal code that is consistent with the laws of the State of Washington, in order to properly protect its citizens and support the training of its police officers; and

**WHEREAS**, the State of Washington has established statutory provisions to consolidate a variety of civil protection orders, including definitions, form, service of process, procedure, violations, and penalties under Chapter 7.105 Revised Code of Washington (RCW); and

**WHEREAS**, to enable enforcement, reporting, and prosecution of these new processes and criminal violations, the City of Chehalis must adopt the RCW by reference within its criminal code; **NOW, THEREFORE**

**THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO  
ORDAIN AS FOLLOWS:**

**Section 1.** Chehalis Municipal Code Section 7.04.005 “Adopted by reference - Violation - Penalty”, shall be amended under “Crimes Against Persons” to include the following RCW provisions regarding Civil Protection Orders:

- 7.105.010 Definitions
- 7.105.105 Filing—Provisions governing all petitions.
- 7.105.120 Filing—Court clerk duties.
- 7.105.150 Service—Methods of service.
- 7.105.155 Service—Completion by law enforcement officer.
- 7.105.160 Service—Materials.
- 7.105.165 Service—Timing.
- 7.105.175 Service—Development of best practices.
- 7.105.200 Hearings—Procedure.
- 7.105.205 Hearings—Remote hearings.
- 7.105.215 Hearings—Extreme risk protection orders.
- 7.105.220 Hearings—Vulnerable adult protection orders.
- 7.105.230 Judicial information system consultation.

- 7.105.245 Interpreters.
- 7.105.320 Law enforcement stand-by to recover possessions—Other than for extreme risk protection orders.
- 7.105.325 Entry of protection order data—Other than for extreme risk protection orders.
- 7.105.340 Surrender of firearms—Extreme risk protection orders.
- 7.105.345 Firearms return and disposal—Extreme risk protection orders.
- 7.105.350 Reporting of orders—Extreme risk protection orders.
- 7.105.450 Enforcement and penalties—Other than antiharassment protection orders and extreme risk protection orders.
- 7.105.455 Enforcement and penalties—Antiharassment protection orders.
- 7.105.460 Enforcement and penalties—Extreme risk protection orders—False petitions.
- 7.105.465 Enforcement and penalties—Knowledge of order.
- 7.105.470 Enforcement—Prosecutor assistance.
- 7.105.515 Reporting of modification or termination of order.
- 7.105.550 Orders under this and other chapters—Enforcement and consolidation—Validity and enforcement of orders under prior chapters.
- 7.105.555 Judicial information system—Database.
- 7.105.570 Other authority retained.
- 7.105.575 Liability.

**Section 2.** The effective date of this ordinance shall be the \_\_\_\_ day of \_\_\_\_\_, 2022.

**PASSED** by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor at a regularly scheduled open public meeting thereof this 8th day of August, 2022.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form and content:

\_\_\_\_\_  
City Attorney